

# **Yemen law of the right of access to information**

*This unofficial translation was prepared by the International Senior Lawyers Project (ISLP) in Yemen.*

## **Part I**

### **Chapter I: Nomenclature and Definitions**

Article (1): This law is called the law of the right of access to information.

Article (2): For the purposes of this law, the following words and phrases shall have the meanings assigned to them unless the context otherwise requires.

**Republic:** The Republic of Yemen.

**Commissioner-General:** Commissioner-General for Information.

**Office:** Office of the Commissioner-General for Information.

**Concerned party:** the legislative, executive and judicial branches, ministries and agencies, institutions and departments of central and local units along with both the public and the mixed sector and every party shall be partially or entirely funded from the general budget of the State.

**Competent employee:** The employee designated by the agency to consider the requests for information.

**Information:** Facts that are recognized in the conscience and which are present as moral and materialistic values in the form of numbers and letters; also, as drawings, images and sounds that which are being collected, processed and saved by electronic methods and sheets, for example but not limited to data, and the contents in any of the records and written documents or saved electronically, or drawings or maps or literature; or also, tables, images, or movies or microfilms or microfiche or audio recordings or videos or graphics or correspondence or tapes and computer disks and other recordings, memoranda, or records and documents reviewed by agency or submitted to it, and any other information reserved online, by all means known now or invented later in the future

**Information System:** a set of elements, whether human materialistic and technical, or organizational and cognitive, that which would interact with each other and work together to achieve the data collection and information processing, analysis and archiving, exchange and dissemination as to meet the needs of beneficiaries.

Personal data: information about an individual relating to a particular strain of this individual, race, and marital status, health, financial status, or other contact information; on the condition that that particular individual has not been dead for more than thirty years since the subscriber had submitted the application.

The cost of access to information: it is the actual cost incurred to portray or copy the information required on paper or electronically excluding the cost of any staff time it takes to arrange these copies and highlighted or moved.

National Information Center: The body that was created under Presidential Decree No. (55) for the year 1995.

**Executive List:** it is the executive list of the premises upon which the law was

established and by which every single phrase or terminology related to the law is being explained and clarified without disturbing any pattern of each of its articles

## Chapter II: Objectives

Article (3): This law aims to:

- A - secure and facilitate the citizen's right to access information without delay and expand the rules of the exercise of rights and freedoms.
- B – Promote the elements of transparency and expand all opportunities for conscious and responsible participation.
- C - Enable the community to develop their abilities to take more advantage of the information.

## Part II: Freedom of access to Information

### Chapter I: principles of the right of access to information

Article (4): access to information is one of the basic rights of a citizen and of foreigners and citizens to exercise this right within the law.

Article (5): A request for information directly to the concerned authority or party of the information required.

Article (6): The access to information directly to those who submit the request or indirectly by publication, or in both ways together

Article (7): Everyone has the natural and legal right to apply for access to information and there should not be any legal accountability from the submission of this application

## Chapter II: Request for access of Information

Article (8): each party ought to designate an information specialist who would head a unit of information that is part of the components of the national system of information and is linked administratively and functionally to the pertaining party, and he shall:

- A – control the necessary powers to search and access to the information required.
- B – Consider all requests for access of information.
- C - Maintain and preserve the information.
- D - Disseminate procedures and forms in ways that would allow the beneficiaries to look at them easily.

Article (9): the party shall do maintenance and preservation of information in their possession systematically and in an order that would allow the employee in charge to easily execute its extraction process using the necessary techniques, methods and software.

Article (10): the party shall organize training courses for its employees regarding the

importance of the right to access and to enable citizens to exercise and how to save the information and find the best and fastest ways to save and retrieve them.

Article (11): the party must put informational evidences and publish annual reports containing at least the following:

A - management information on the mechanism of action to include the objectives, activities and programs and the final accounts, along with information on areas of its official activities and the results of the performance of its constitutional and legal duties.

B- Determine how and where the citizens get the information and make requests and learn about the documents, receive and abstract copies and get a decision.

C - Index of all types of information that legally oblige the party in charge to execute their conservation and maintenance.

D - A report on requests for access to information that have been received and that have been operated upon and those that have been rejected and the reasons for rejection and motions that have been submitted, along with the actions relating thereto, and the average number of days during which there has been responses to requests for information.

E - Directory lists of the topics that you must publish along with the dates and methods of their dissemination.

F – as for any other additional information that the Commissioner sees it necessary to publish in accordance with the purposes of this Act.

Article (12): You must provide the National Information Center with the information that are published under Article (11) of this Act and both the party and the National Information Center have to provide this information through sheets or electronically, either free of charge or at prices not exceeding the cost of obtaining information.

Article (13): it is not permitted to inflict any punishment on any employee who has given information about violations or infringements of this law or who has assisted in any investigation about any violation or infringement of this law. Also, he may not be punished in his job by any legal proceedings or otherwise.

Article (14): Any competent officer against whom punitive action was taken in accordance with Article (13) of this Act may appeal to the courts of the Republic of Yemen for redress and compensation for the damage he was inflicted by.

Article (15): A request for access to the information in writing shall be done in accordance with the form designed for this purpose to the party whom the applicant believes it possesses the information, including the applicant's name and address of residence and work location; and this request must contain sufficient details that would enable the employee in charge to extract the information while the request for the application to access to information shall be done via Instant-mail or postal mail or through direct attendance to the source of access to information or the National Center for Information; and in all cases, the application will be submitted upon the form approved for that.

Article (16): it takes into account the procedures and forms organized to get the information that would provide additional facilities that are appropriate for the illiterate and those with special needs.

Article (17): It is permissible for a foreigner, or a foreign official party to apply for access to information in accordance with the provisions of this law.

Article (18): After receiving the request, the employee in charge shall immediately give notice of receipt to those who have made the request indicating the date of submission of the application and the type of information and the time required to respond to the request specified in this law.

Article (19): The employee in charge shall respond to the request within fifteen days from the date of its submission, the employee may extend this period for one period of time not to exceed fifteen days if the application contains a large number of information, or if access to information requires reasonable consultation of another party, whereas it would be considered as a denial to the request if there was no response during that period of time. And where such extension is appropriate, the employee in charge shall report to the applicant in writing, during original period of time while giving priority to requests that were applied by the journalists and people who collect news and job seekers who work during the time limits or by those who ask for information on issues dealing with the public interest or public affairs.

Article (20): A - the employee in charge shall enable the applicant to have access to information from him and determines the cost of that, where appropriate, if copies were requested.

B - If the employee in charge found that part of the information required is under one or more exceptional articles as specified in this law, and that it is based on this exception, then, he would have to deliver the part that is not excluded and deliver a notice to the applicant in writing that there is a part of the information that was withheld from him, specifying in writing the specific exception in this law upon which the employee in charge has relied to withhold the requested information.

C - If the request is made to get the information and the information is available at the source in another language or in a different way from what is required, then, it would be sufficient to simply hand over the requested information in the language or form in which the two are available as long as they contain the required information.

Article (21): When approval of the request is done, the employee in charge must submit to the applicant of the required information all documents that contain the information on paper or electronically according to the formula that is available to the authority and as required by the applicant.

Article (22): It is permissible for the employee in charge to refer the request to another party after notifying the applicant thereof during the time period identified in Article (19) of this Act) of law, if he determines that the connection of that party to the information requested is greater in which case, the application shall be considered as if it was

presented to the party that was referred to during the time the submission was done to the other party in accordance with Article (19) of this Act.

Article (23): If the request is denied, in whole or in part, the employee has to show in a written reply that would be submitted to the applicant, the reason for the rejection of the application and that reason should not be:

A - That the information is not held by the party.

B - That the information required fall within the scope of one or more exceptions specified in this law and that Article (27) is not applicable while the exception/exceptions that were utilized should be referred to.

Article (24): In case the applicant of the decision is not convinced, he is entitled then and in accordance with Articles (30) to (32) of the Act to complain to the Office of the Commissioner-General, with the recourse to go to court if he is not convinced by the decision of the Office of the Commissioner General.

### Chapter III

#### Exceptions

Article (25): Subject to the provisions of articles (4.19, 20 / B, 23.27) of this law, the officer or employee in charge shall reject any request for access to information if they contain:

A - details of weapons and defensive tactics and strategies, and military forces or secret military operations aimed at protecting the homeland;

B - confidential matters relating to foreign policy affairs for defense and military alliances.

C - The information exchanged with other countries with whom it has been agreed to keep the information confidential before the exchange or delivery of this information.

D - Information, if disclosed, may cause significant harm to:

1 - a crime prevention or detection.

2 - Arrest or prosecute offenders.

3 - The administration of justice.

4 - Assessment or collection of any tax or legal fees.

E - Information, if disclosed, would lead to the disclosure of the identity of a confidential source of information to that which the law enforcement officials have pledged to maintain confidentiality.

F - The electronic information which, if disclosed, could cause penetration of protected networks and equipment and may expose them to deletion or theft.

G - Information of a commercial, financial or economic nature, or even industrial, or scientific or technical researches, the disclosure of which would lead to the breaching of copyright and intellectual property or of the fair and legitimate competition, or which would lead to illegitimate profit or loss to any person or company.

Article (26): Subject to the provisions of Articles (4, 19.20 / b, 23) of the Act, the officer shall reject any request for access to information if that information contain:

A - information which, if disclosed, may endanger the life of an individual or put his physical safety at risk.

B - Personal data which, if disclosed, may be considered as an illogical violation to the privacy of the individual, as long as the personal data are connected to the duty or function or public office held by that individual and a general social damage is caused if not published.

Article (27): it is not permissible for the employee in charge to refuse to disclose the information contained in the article (25) of this Act if:

A - This information was still in possession of the party and is older than thirty years.

B - This information has never been available to the public.

#### Chapter IV

#### Commissioner-General of the Information

Article (28) shall be established under the provisions of this law, the Office of the Commissioner-General of Information has a legal personality and independence necessary for the exercise of his office functions. The office is allocated to a separate budget within the general budget of the state.

Article (29): Office aims to ensure the implementation of the provisions of this law and to achieve the desired goals, and in that respect, the office is to implement its duties and exercise the following powers:

A - the development and organization of programs, plans and policies for the individual to exercise his right to access and view the information.

B - To educate the citizens and raise awareness about the importance of his/her right to be informed and access to information.

C - Contribute to training of staff and officials of the agencies on how to enable the individual to have access to information and the importance of that.

D - The monitoring of violations and the publication of reports and studies that include obstacles to the exercise of the right to be informed (of the information) and how to overcome them.

H - Develop a standard form for requests for access to information from the concerned authorities.

Article (30): The Office is considered to have oppressed whoever:

A - his request for access to information was refused

B - charges were imposed on his request beyond those approved in this law.

C - His extended period of time required to answer his request was in violation to the provisions of Article (19) of the Act.

D - His request was forwarded to more than one without approval.

E - Any other cases accepted by the Commissioner-General of Information.

Article (31): complaints must be submitted to the Office within thirty days from the date of receipt of the applicant a rejection to his request.

Article (32): the office has to answer to the complaint within a period not exceeding thirty days from the date of its submission to him and the Office must immediately after receiving the complaint send a letter to the employee in charge in the party that has

rejected the request for access to information, in which he will be informed of his complaint and will get a copy of the reasons that the employee in charge has identified for refusal. And the Commissioner-General who acts as an arbitrator has to decide independently whether a refusal to disclose legal, or not shall be taken and then bind the party of the necessity of meeting the demand within seven days of the issuance of his decision.

Article (33): It is permissible for the applicant, whose request was refused from the Office of the Commissioner-General to submit to the competent court spatially to consider it and issue its ruling in haste during a period not to exceed thirty days, and the first instance judgment shall be considered final and enforceable to the party over a period not to exceed seven days, while in the case of dismissal of the law suit, then, the applicant may appeal within the period specified by law.

Article (34): The Office is headed by the Information Commissioner-general in the rank of minister appointed by the President of the Republic and he shall preside over the office for four years, renewable for one time only.

Article (35): It is stipulated to the Commissioner-General the following conditions:

- A - be a Yemeni national.
- B - be at least forty years of age.
- C - Hold at least a university degree in information systems.
- D - to be of good character and behavior, complying to the Islamic ordinances and that no court order has been issued against him in a case involving moral and loyalty matters unless he has been acquitted thereof
- E – have an administrative experience of no less than five years.

Article (36): The Commissioner-General is to follow up and issue decisions on appeals submitted to the Office and the appointment of office staff and to implement a system of their own in order to apply the provisions of this law.

Article (37): The Office of the Commissioner-General shall have an administrative and technical structure shown by the regulations of this law.

Article (38): The Commissioner-General of the Information is to devote himself to his work in the office and shall not during his tenure of his job to act or hold an office or other function, whether paid or unpaid.

Article (39): The services of the Commissioner-General shall end in the following conditions:

- A - If he is convicted of a felony or misdemeanor involving moral turpitude and loyalty
- B - If he worked in any other position or rank
- C - in the case of the death of the Commissioner-General.

Article (40): If the Commissioner-General was discharged of his service under section

(39) of this Act, the President shall appoint another Commissioner within (thirty) days from this discharge, in accordance with the provisions of this law.

Article (41): The recommendations and decisions of the Commissioner-General related to his duties in accordance with the provisions of this law are considered binding on all parties.

Article (42) For the purposes of the implementation of the Commissioner-General of his functions, he has the following powers:

A - get periodic reports from the parties specified in this Law, at his request.

B - The right to enter any public institution and inspect its records, papers, and any related evidences related to required information.

C - Investigation with any employee in isolation in order to reach the required information.

D – over whoever has concealed or destroyed information or amended information contrary to its veracity for the purpose of evading its submission to the applicants.

E - Request clarification in writing from the senior state officials such as ministers and the like on why they have concealed the information if this concealment is a result of orders from them directly. The Commissioner-General in this case and if he is not convinced of all justifications offered has the right to submit the report to the House of Representatives to take appropriate action.

F- Make decisions and recommendations to the authorities regarding the application of the provisions of this law.

Article (43): The Commissioner-General should submit periodic reports every four months and whenever the need arises, to the President of the Republic, the House of Representatives, the Council of Ministers, and these reports must contain:

A - cases of unjustified refrain from providing information.

B - Operational problems he is facing in the implementation of his functions.

C - Works and activities of the Office on the right of access to information.

D - Any other topics that the Commissioner-General considers appropriate.

Article (44): The headquarter office shall be in the capital, Sana'a, and there may be branches in the capital and other provinces.

### Part III

#### Protection of information

Article (45): each party keeps a safe reserve, including copies of all that information in its possession relating to its mandate and its official activities, and this takes into account the introduction of means and modern mechanisms to save the information to minimize space and places of archives and the use of modern indexing, which facilitates access to information.

Article (46): It is not permissible to exploit the failure or absence of the security systems of the information in order to execute an illegal act that which would cause harm to the information.

Article (47) there shall be established within a unit of information on each side an appropriate administrative level that is specialized in the supervision and control over the application of the security standards related to the information provided in all parties.

Article (48): Each one of the information systems used by the different parties must have the ability to verify and establish the responsibility of actions in the entry, processing, preservation and retrieval of information and in the access to the system and all data contained in it.

Article (49): All systems and application software that are introduced, built and used by the different parties must have the security standards that ensure reliability and safety of regular operation, and these security standards shall be developed regularly, and in a timely manner.

Article (50): All parties have to set and apply the rules and the administrative, technical and physical procedures, to protect information systems and networks and ensure their continuity and regularity of operation.

#### Part IV Privacy Policy

Article (51): It is not permissible for any party to collect, process, save and use of personal data of the citizen, contrary to the Constitution and the laws in force.

Article (52): The collection, processing, storage and use by any party of the personal data shall be limited to the powers and functions of this official party who is authorized to do so as necessary for performance of her functions.

Article (53): taking into account the articles (26), (54) the party that is storing the personal data may not disseminate these personal data or give them to a third party except with a written consent by those connected to the data.

Article (54): It is not permissible to provide personal data to any state or other third-party that does not have the same legal safeguards to protect privacy.

Article (55): It is not permissible for any party to use the personal data for purposes other than that which they were collected for.

Article (56): Each party that is collecting and maintaining personal data has to follow systems and procedures that provide systems to update the personal data. And whoever is related to these data has to provide all that is necessary to update them.

Article (57): each party that is storing personal data is fully responsible for the protection of these data and the development of an approved privacy statement that would show the systems and procedures for dealing with confidentiality of personal data and their availability to be viewed.

Article (58): Whoever offers his personal data is entitled to access those data that he had submitted and he is to check its safety or to submit additional information for correction and update purposes.

## Part V

### Offenses and sanctions

Article (59): A penalty of imprisonment for a term not exceeding one year or a fine of not less than one hundred and fifty thousand riyals to each one who has concealed any information due to look at and deliberately under the provisions of this law.

Article (60): A penalty of imprisonment for a period of not less than three months and not exceeding one year or a fine of not less than one hundred and fifty thousand riyals to each one who has given information for the purpose of misleading the applicant.

Article (61): A penalty of imprisonment for a period of not less than three months or a fine of not less than one hundred and fifty thousand riyals to each employee who has violated deliberately the provisions of articles (18-23), (25-27), (51-55), 58 of this law.

Article (62): A penalty of imprisonment for a period of not less than two years or a fine of not less than five hundred thousand riyals to every person who has deliberately violated the provisions of Article (11) of the Act

## Part VI

### General and Final Provisions

Article (63): National Information Center is one of those parties that collect and analyze information and maintain them for submission upon request, in accordance with the provisions of this law.

Article (64): It is permissible for any party to provide information, except for the personal data, to the National information Center and it is allowed to request this information to that party and / or the National Information Center. Also, the party has no right to justify non-disclosure of information under this Act on the grounds that the information has been or is being submitted or forwarded to the National information Center.

Article (65): Any provision contrary to the provisions of this law shall be deleted.

Article (66): The executive regulations of this law shall be issued by the President of the Republic (after its issuance) by the Commissioner-General within a period not exceeding six months from the date of issuance of this law.