

Access to information ordinance promulgated

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Sindh Governor Dr Ishratul Ibad on Thursday promulgated the Sindh Freedom of Information Ordinance to ensure transparency and openness in the functioning of government departments.

The new law is aimed at extending freedom of information to ensure that citizens of the province have improved access to public record. Its purpose is to make the provincial government more accountable to citizens.

Under the ordinance, each public body shall ensure that all records are properly maintained. The acts and subordinate legislation, such as rules and regulations, notifications, by-laws, manuals, orders having the force of law in Sindh shall be duly published and made available at a reasonable price at an adequate number of outlets so that access thereof is easier, less time-consuming and less expensive.

“Each public body shall endeavour within a reasonable time and subject to availability of resources that all records covered by the provisions of this ordinance are computerized and connected through a network all over the country on different systems so that authorized access to such records is facilitated.”

According to the ordinance, with the exclusion of certain records, all public bodies actions and functions will come under the ambit of public record, namely policies and guidelines, transactions involving acquisition and disposal of property and expenditure undertaken by a public body in the performance of its duties; information regarding grant of licenses, allotments and other benefits and privileges and contracts and agreements made by a public body; final orders and decisions, including decisions relating to members of public; and any other record which may be notified by the government as public record for the purposes of this ordinance.

“Exclusion of certain records shall apply to the records of all public bodies, namely -- notes on the files; minutes of meetings; any intermediary opinion or recommendation; records of the banking companies and financial institutions relating to the accounts of their customers; records relating to defense forces, defense installations or connected therewith or ancillary to defense and national security; records declared as classified by government, records relating to the personal privacy of any individual; records of private documents furnished to a public body either on an express or implied condition that information contained in any such documents shall not be disclosed to a third person; and any other record which government may, in public interest, exclude from the purview of this ordinance.

“A public body shall take necessary steps as may be prescribed to assist any requester under this ordinance.

“A public body shall designate and notify an officer or employee to whom requests under this ordinance are to be made. These officials will be designated to ensure easy public access to information. In case no such official has been designated or in the event of the absence or non-availability of the designated official, the person in charge of the public body shall be the designated official. Subject to the provisions of this ordinance and the rules made there under the instructions, if any, of government, the designated official shall provide the information contained in any public record or, as the case may be a copy of any such record.

“Any citizen of Pakistan may make an application to the designated official in the form as may be prescribed and shall, with his application, furnish necessary particulars, pay such fee and at such time as may be prescribed. It shall not apply to such public record as has been published in the official Gazette or in the form of a book offered for sale. On receiving an application, the designated official shall, within 21 days of the receipt of request, supply to the applicant the required information or, as the case may be, a copy of any public record.

“In case the designated official found any flaw in request, he should record his decision in writing and the applicant should be informed about such a decision within 21 days of the receipt of the application. Subject to the provisions of this ordinance, a public body shall not be required to disclose exempted information. Information may be exempted if its disclosure is likely to result in the commission of an offence; harm the detection, prevention, investigation or inquiry in a particular case; reveal the identity of a confidential source of information; facilitate an escape from legal custody; and harm the security of any property or system, including a building, a vehicle, a computer system or a communications system. Information is exempted if its disclosure under this ordinance would involve the invasion of the privacy of an identifiable individual (including a deceased individual) other than the requester. Information is exempted if and so long as its disclosure would be likely to cause grave and significant damage to the economy as a result of the premature disclosure of the proposed introduction, abolition or variation of any tax, duty, interest rate, exchange rate or any other instrument of economic management; would be likely to cause significant damage to the financial interest of the public body by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body for the acquisition or disposal of property or the supply of goods or services, or; by revealing information to a competitor of the public body, would be likely to cause significant damage to the lawful commercial activities of the public body.

“If the applicant is not provided the information or copy of the record declared public

record under the ordinance within the prescribed time or the designated official refuses to give such information or, as the case may be, copy of such record on other ground that the applicant is not entitled to receive such information or copy of such record, the applicant may, within 30 days of the last date of the prescribed time for giving such information or, as the case may be, of such record, or the communication of the order of the designated official declining to give such information or copy of such record, file a complaint with the head of the public body and on failing to get the requested information from him within the prescribed time may file a complaint with the head of the public body and on failing to get the requested information from him within the prescribed time may file a complaint with the Ombudsman. The Ombudsman may, after hearing the applicant and the designated official, direct the designated official to give the information or, as the case may be, the copy of the record or may reject the complaint. Where a complaint instituted is found to be malicious, frivolous or vexatious, the complaint may be dismissed by the Ombudsman, and fine may be imposed on the complainant up to an amount not exceeding 10,000 rupees.

“Any person who destroys a record which at the time it was destroyed was the subject of a request, or of a complaint with the intention of preventing its disclosure under this ordinance, commits an offence punishable with imprisonment for a term not exceeding two years, or with fine, or with both. The provisions of this ordinance shall be in addition to, and not in derogation of, anything contained in any other law for the time being in force.”