

**THE LAW OF MONGOLIA
ON INFORMATION TRANSPARENCY AND RIGHT TO INFORMATION**

CHAPTER ONE

Preamble

Article 1. Purpose of the Law

1.1 The purpose of this Law is to regulate relations pertaining to ensuring transparency of the state activity and the rights of citizens and legal persons to seek and obtain information.

Article 2. Legislation pertaining to information transparency and the right to obtain information

2.1 The legislation pertaining to information transparency and the right to obtain information consists of the Constitution¹, the Law on State Secret², the Law on Approval of State Classified Information List³, the Privacy Law⁴, this Law and other legal acts of Mongolia enacted in conformity with the aforementioned laws.

2.2. If the present law conflicts with any treaty obligations of Mongolia, the treaty obligations shall prevail.

Article 3. The regulatory scope of the law

3.1. This law pertains to the central government and local government bodies funded by the state budget:

3.1.1. The Secretariat of the State Great Khural (Parliament);

3.1.2. The Office of the President;

¹ The Constitution of Mongolia – published in the Issue No.1 of the “State Information” bulletin, 1992

² The Law on State Secret – published in the issue No.7 of the “State Information” bulletin, 1996

³ The Law on Approval of State Classified Information List – published in the issue No.4 of the “State Information” bulletin, 2004

⁴ The Privacy Law – published in the issue No.7 of the “State Information” bulletin, 1995

3.1.3. The Cabinet Secretariat;

3.1.4. The Secretariat of the National Security Council (with the exception of the Cabinet);

3.1.5 State central administrative and other state administrative bodies;

3.1.6. Judiciary and state prosecutor's offices (at all levels);

3.1.7. Bodies and institutions arising from the functioning of the State Great Khural (Parliament) with the exception of the Cabinet;

3.1.8. Local government and elected offices' secretariats, legal entities funded through local government property partially or entirely;

3.1.9. Legal entities funded through state property partially or entirely;

3.1.10. Non-governmental organizations fulfilling certain functions of the executive branch in accordance with the sub-section 1 of Article 19 of the Law of Mongolia on the Government⁵; and

3.1.11. The Mongolian National Broadcaster Television and Radio.

3.2 This Law shall not be applied for ensuring transparency of activities of the armed forces, border and internal troops, and intelligence agency.

3.3 This Law shall not apply when receiving and resolving petitions, comments, complaints and statements specified in the Article 4 of the Law on Resolution of Petitions and Complaints Made by Citizens to the State Agencies and Public Officials⁶.

Article 4. Definition of terms

4.1. The terms used in the present law shall have the following meaning:

4.1.1. a "citizen" is a citizen of Mongolia as well as a foreign citizen or a stateless person residing in Mongolia lawfully;

4.1.2 "Website" means electronic document or information placed on the internet in the public domain;

⁵ The Law on the Government of Mongolia, published in the official legal gazette "State Newsletter" compilation number 3 of 1993.

⁶ The Law on Resolution of Petitions and Complaints Made by Citizens to the State Agencies and Public Officials – published in the issue No.7 of the "State Information" bulletin, 1995

4.1.3. an "electronic document" is any electronic data that may be generated, transmitted, received and stored through the use of computer, computer software and other similar technologies;

4.1.4. a "digital signature" is a digital data that is a part of the electronic data, generated with a personal digital signature generator that converts and crypts electronic data to protect it from being forged or modified;

4.1.5. "maintenance" is renewal of the given information no less than once in fourteen days;

4.1.6. "update" is renewal of the given information within three days after a change is made to the information, whether partially or entirely;

4.1.7. "avail information in an easily accessible manner" means that there is a full possibility for people to access that information;

4.1.8. "expenditure for information release" is the expenditure incurred in photocopying, copying, postage and other expenses related to releasing of information citizens and legal entities;

4.1.9. a "repeated violation" is the violation of the Law on Information Transparency and Freedom of Information three and more times; and

4.1.10. a "serious violation" is the violation of the citizens' right to information manifesting through illegal concealment, forgery of, correction in, and destruction of documents and information that has led or may lead to significant losses by the state, citizens, economic entities and other bodies.

Article 5. Principles to be adhered to in the activity of ensuring information transparency and the right to information

5.1 The following principles shall be adhered to in the activity of ensuring information transparency and the right to information:

5.1.1. Rule of law;

5.1.2. Respect for the citizen's and legal entities' lawful interests;

5.1.3 All information other than those classified as "confidential" according to the laws shall be open to the public;

5.1.4. Independence;

5.1.5 The activity of providing public with information shall be prompt.

CHAPTER TWO

Information transparency

Article 6. Transparency of information

6.1. Transparency of information shall be divided in the following categories:

6.1.1. Functional transparency;

6.1.2. Human resources transparency;

6.1.3. Budget and accounting transparency;

6.1.4. Transparency in procurement of goods and services with the state and local government property monies.

Article 7. Functional transparency

7.1. Unless otherwise specified in the laws, the bodies listed in the Article 3.1 of the present law shall undertake following measures to ensure functional transparency:

7.1.1. The mission, strategic objectives, priority areas and measures undertaken by the organization to achieve these objectives and priorities, results arising from these measures and organigrams shall be made available in an easily accessible manner on the organization's website and or information board, and maintained and updated regularly;

7.1.2. The service and communications official's surname and name, title, terms of reference, visitor schedule, contact numbers shall be made available in an easily accessible manner on the website and/or information board of the organization and maintained and updated regularly;

7.1.3. A list of documents required to receive services shall be made available in an easily accessible manner on the website and/or information board of the organization and maintained and updated regularly;

7.1.4. Laws, regulations and other similar acts guiding the functions of the body shall be made available in an easily accessible manner on the website and/or information board of the organization and maintained and updated regularly;

7.1.5. Any policy documents that are under development and/or resolutions affecting or establishing public norms shall be made available in an easily accessible manner on the website and/or information board of the organization in its draft form for no less than 30 days to facilitate feedback and opinion from state bodies, non-governmental organizations, experts, academics and citizens with the view of reflecting them in the draft if found to be grounded;

7.1.6. Undertake any organizational measures to improve the service methodology and forms;

7.1.7. When a non-governmental organization fulfills certain functions of the executive branch in accordance with the sub-section 1 of Article 19 of the Law of Mongolia on the Government, the given non-governmental organization's name, address, website address and organizational functions shall be made available in an easily accessible manner on the website and/or information board of the organization;

7.1.8 In case if a given organization issues special licenses for conducting certain types of business operations or other operations, it shall place names, addresses, fields of operations, special license issue and expiry dates of special license holders in its website in an understandable way and update them regularly.

7.1.9 To place information concerning implementation and progress of the projects and programs implemented by state budget financing or foreign loan and grant funding within the sector and update them regularly;

7.1.10. Any other information specified in the laws.

Article 8. Transparency of the human resources policy

8.1. Unless otherwise specified in the laws, bodies listed in the Article 3.1 of the present law shall undertake the following measures to ensure the transparency of its human resources policy:

8.1.1. Job vacancies shall be announced in an easily accessible manner on the website and/or information board of the organization, updated regularly and announced in an open manner through other public media forms;

8.1.2. Civil servants' ethics rules shall be made available in an easily accessible manner on the website and/or information board of the organization and updated regularly;

8.1.3. Evaluation and monitoring regulations and procedures of the human resources strategy and its implementation shall be made available in an easily accessible manner on the website and/or information board of the organization and updated regularly;

8.1.4. The report on measures undertaken to ensure the transparency of the human resources management shall be made available in an easily accessible manner on the website and/or information board of the organization;

8.1.5. The report on measures undertaken to ensure performance evaluation of employees is fair and correct shall be made available in an easily accessible manner on the website and/or information board of the organization; and

8.1.6 To inform any other information specified in laws and regulations.

Article 9. Budget transparency

9.1. Unless otherwise specified in the laws, bodies listed in the Article 3.1 of the present law shall undertake the following measures to ensure budget transparency:

9.1.1. The budget of the current year as well as the annual financial report of the previous year and the proposed budget for the following year shall be made available in an easily accessible manner on the website and/or information board of the organization as well as in the Budget Transparency Website of Mongolia within the timeframes specified below to ensure information access to citizens and legal entities:

9.1.1.a. The budget of the current year shall be published within 10 January of the current year;

9.1.1.б. The financial report of the previous year shall be published within 1 April of the current year;

9.1.1.в. The proposed budget of the following year shall be published within 15 August of the current year.

9.1.2. The annual financial report shall be made available in an easily accessible manner on the website and/or information board of the organization within 1 April of the current year to enable the budget monitoring by citizens and civil society organizations;

9.1.3. The audit review of the financial report shall be made available in its entirety in an easily accessible manner on the website and/or information board of the organization within 1 April of the current year;

9.1.4. Any changes and modifications made to the budget of the current year shall be made available in an easily accessible manner on the website and/or information board of the organization within 14 working days from the date when changes were made;

9.1.5. Only fees specified in the law shall be levied from customers, and the fee structure shall be made available in an easily accessible manner on the website and/or information board of the organization and updated regularly; and

9.1.6. To inform any other information specified in laws and regulations.

9.2. The state administrative body in charge of state property shall make available the following information in addition to the information specified in the Articles 7, 8, 9.1, and 10 in national daily publications and other media as well as on its website and information board in an easily accessible manner:

9.2.1. A list of concession items and changes made to such a list shall be made available within 14 working days since such a list is approved;

9.2.2. The concession contracts and changes made to such contracts shall be made available within 14 working days since such contracts are effective;

9.2.3. In case a concession contract is made, any information not related to the owner of the concession and their organization, such as information on such a contract, item of the concession and conditions of services shall be made available within 14 working days since such contracts are made.

9.3. The state administrative bodies in charge of social insurance shall make available on their websites the list of persons entitled to pension, supplement, subsidy and other payments from the state social insurance fund, specifying their surnames and names in an easily accessible manner in addition to the information specified in the Articles 7, 8, 9.1 and 10 and maintain and shall update this list regularly.

Article 10. Transparency in the procurement of goods and services with the state and local government property monies

10.1. Unless otherwise specified in the laws, the bodies specified in the Article 3.1 of the present law shall undertake the following measures to ensure the transparency in the procurement of goods and services and other items with the state and local government funds:

10.1.1. The principles of transparency, fairness, efficiency, economy and accountability shall be upheld in the procurement policy and such policy shall be made available in an easily accessible manner on the website of the organization, and made public through other means;

10.1.2. Bid documents, bid invitations and regulations concerning bid selection processes shall be made available in an easily accessible manner on the website and/or information board of the organization and shall be updated regularly; such notices shall also be published in the media as per the Article 21 of the Law on the Procurement of Goods and Services with the State and Local Government Property Monies⁷;

10.1.3. Criteria for the selection of bidders as well as of criteria under which a contractor was selected shall be made available in accordance with the relevant legal regulations in an easily accessible manner on the website of the organization and shall be updated regularly;

⁷ The Law on the Procurement of Goods and Services with the State and Local Government Property Monies, published in the official gazette "State Newsletter" compilation number 48 of 2005.

10.1.4. Brief information on successful or unsuccessful bidders as well as the detailed reasons, conditions and legal grounds for selections shall be made available on the website of the organization and updated regularly;

10.1.5. Report on the procured goods and services shall be made available on the website of the organization and updated regularly;

10.1.6. Any violations uncovered during the bid selection process shall be informed in a timely manner to relevant bodies and organizations;

10.1.7. The procurement audit and reports, conclusions and other monitoring reports shall be made available in an easily accessible manner on the website and/or information board of the organization and updated regularly; and

10.1.8. To inform any other information specified in laws and regulations.

CHAPTER THREE

PROCEDURE TO ACCESS AND TO PROVIDE WITH INFORMATION

Article 11. Receiving information

11.1. A citizen and a legal entity shall be entitled to receive the following information not related to the human rights and freedoms, national security, and lawful interests of organizations prohibited to be released to the public under the laws from the state bodies listed in the section 3.1 of the present law:

11.1.1. All information and documents, and information pertaining to the organization's contracts and agreements in possession of the organization;

11.1.2. All information pertaining to the goods and items in possession of the organization;

11.1.3. Any other information pertaining to the functioning of the organization.

11.2 A relevant official of the organization specified in the provision 3.1 of this Law, who is receiving a request for information from a citizen or a legal person, shall be forbidden to demand any requirements other than those specified in this Law from the citizen or legal person.

11.3 A request of a citizen or legal person for receiving information shall meet the following requirements:

11.3.1 The citizen, who is making the request for information, shall write down his or her full name, residence and email addresses, telephone number, number of citizen D card or equivalent document, and sign on the request duly;

11.3.2 The legal person, which is making the request for information, shall write down its full name, address, email address and state registration number on the request and have it signed by a person duly authorized to represent it;

11.4 If the citizen is not able to sign on the request as specified in the provision 11.3.1 of this Law due to excusable reason, he or she may have the request signed by other person on his or her behalf. In case if citizens make such request for information jointly, the request may be signed by all of them or by their representative if a document evidencing the right to represent them is enclosed with the request.

Article 12. Rights and Obligations of Information Requesting Person

12.1 An information requesting person shall have the following rights:

12.1.1 To have equal rights;

12.1.2 To select the form of receiving information;

12.1.3 Not to explain the requirement and ground for receiving information;

12.1.4 To make additional inquiry about the issues related to the received information;

12.1.5 To have oral explanation about the content of the received information;

12.1.6 To know the official source of the received information;

12.1.7 To make a complaint to a relevant authority or an official in case if he or she thinks that his or her rights are violated;

12.1.8 Any other rights specified in the laws;

12.2 An information requesting person shall have the following obligations when receiving information:

12.2.1 To follow the procedure of receiving information specified in this Law;

12.2.2 Not to violate the Constitution and other laws of Mongolia, rights and lawful interests of others when exercising his or her rights;

12.2.3 To identify the information to be received substantively.

Article 13. Review of the request

13.1 An official, who receives requests of citizens and legal persons for obtaining information, shall review the request in the following manner:

13.1.1 Whether the request meets the requirements specified in the provision 11.3 of this Law or not;

13.1.2 To check whether the relevant information of the requesting citizens and legal persons are correct or not by using number of citizen ID cards or equivalent documents;

13.1.3. Whether the requested information is in possession of the concerned body in receipt of such a request. If not, the official shall transfer the information request to the body that is in possession of the requested information within 2 days and shall inform the citizen or the legal entity which has made such a request;

13.1.4. Whether there are grounds specified in the provision 18 of this law.

13.2. The information request shall be returned to the citizen or the legal entity on the following grounds in addition to the grounds specified in the provision 18 of the present law:

13.2.1. The request does not fulfill the criteria specified in the provision 11.3 of this law;

13.2.2. The information requested is not in possession of the concerned body in receipt of such a request, and there is no possibility to transfer the information request to the body that is in possession of such information.

13.3. When returning the information request, reasons for such a return shall be made clear.

Article 14. Release of information

14.1. The bodies listed in the provision 3.1 of the present law shall bear the duty of releasing information not pertaining to the body's information prohibited by law from being released to the public.

14.2 The organization specified in the provision 3.1 of this Law shall determine the venue and timetable of meeting citizens and receiving requests, and inform the public of the venue and timetable.

14.3 The organization specified in the provision 3.1 of this Law shall be forbidden to destroy information in its possession illegally and impede the exercise of the right of citizens to receive information.

14.4 The organization specified in the provision 3.10 of this Law shall keep the following information open to the public:

14.4.1 Information that shows that existing and potential impact of the activity, production, services of and equipment and technology used by of the given organization on environment and health of population;

14.4.2 Information specifying potential harmful impact of all types of poisonous or radioactive substances in possession of the organization on environment and health of people in the event if the procedures of their storage and protection are violated;

14.4.3 Any other information required to be disclosed to the public as specified in the laws.

14.5 The organization specified in the provision 3.1.10 of this Law shall be obliged to adopt list of its classified confidential information and to inform the public of it.

14.6 Information may be provided orally, in written or electronically, and a citizen or legal person may visit the organization and get the information in person.

14.7 A request for information that is available immediately shall be resolved and answered immediately.

14.8 Unless otherwise specified in the laws, information shall be given within 7 business days to a citizen or legal entity that made request. If a request is made by citizens jointly, its answer shall be given to their representative.

14.9 If it is deemed necessary, the deadline specified in the provision 14.8 can be extended once by 7 days.

14.10 The date of response to a request, the name of staff who prepared the response and form of the response shall be recorded and kept duly.

Article 15. Receipt and release of information electronically

15.1. A citizen or a legal entity may request information electronically.

15.2 In case a citizen or legal person needs to receive information in electronic form, he or she shall make an electronic request document signed digitally including number of his or her citizen ID or equivalent document, and send to a relevant organization by email.

15.3. When releasing information to citizens and legal entities in an electronic format, the official who has the authority to represent the concerned body, shall create a

digital document and sign it digitally, and transmit the document to the information seeker through electronic mail.

15.. When releasing information electronically, the rules specified in the Articles 11 to 14 shall be upheld.

Article 16. Service fees

16.1. When a citizen or a legal entity request information, certain service fees shall apply.

16.2 The amount of service fee specified in the provision 16.1 of the present Law shall be set by the management of the organization in consistency with the cost of giving such information, and service fee calculation methodology and procedures of paying service fee and service fee exemption or discount shall be approved by the Government.

16.3 The service fee specified in the provision 16.1 of the present Law shall not be charged in addition to other service fees specified in the laws.

16.4 The service fee shall not exceed the costs of copying and postal delivery etc. related to giving such information.

Article 17. Complaints, procedures to review and resolve complaints

17.1. A citizen or a legal entity that considers its lawful right to information infringed by the commission or omission of the official, body, and organization shall have a right to complain to the upper level instances within the body or organization, the National Human Rights Commission of Mongolia, or to the court.

17.2 The relations pertaining to resolving complaints specified in the provision 17.1 of the present Law shall be regulated by the following laws:

17.2.1. If such a complaint is filed to the upper level management or upper level instance of the body or organization, the complaint shall be reviewed under the Law on Resolving Complaints Made by Citizens Against the Civil Servants and State Body, the Law on Administrative Procedures⁸, the Law on Civil Procedures⁹;

17.2.2. If such a complaint is filed to the National Human Rights Commission of Mongolia, the complaint shall be reviewed under the Law on the National Human Rights Commission¹⁰;

⁸ The Law on Administrative Procedures, published in the official legal gazette "State Newsletter" compilation number 3 of 2003.

⁹ The Law on Civil Procedures in the official legal gazette "State Newsletter" compilation number 8 of 2002.

¹⁰ The Law on the National Human Rights Commission of Mongolia, published in the official legal gazette "State Newsletter" compilation number 48 of 2000.

17.2.3. If such a complaint is filed to the courts, the complaint shall be reviewed under the Law on Administrative Procedures and the Law on Civil Procedures.

CHAPTER FOUR

On prohibition of release of certain information to citizens and legal entities

Article 18. Special circumstances

18.1. The information release shall be prohibited in the following circumstances:

18.1.1. If there are well-grounded reasons to believe that the public release of the concerned information shall be detrimental to the national security of Mongolia and the public interests;

18.1.2 In case if the requested information is related to an issue investigated by Mongol Bank, Financial Regulatory Committee or a government administrative body in charge of professional inspection affairs;

18.1.3. If the concerned information relates to the state, organization and person's secret under review at the first instance report filing, investigation, and prosecution;

18.1.4. If the concerned information relates to the ratification of the international treaty process;

18.1.5. Any other information specified in the laws.

Article 19. Intellectual property protection

19.1. It shall be prohibited to release information related to the intellectual property without the owner's permission to others.

Article 20. Protection of personal secrets

20.1 .Unless otherwise specified in the laws, it shall be prohibited to release information beyond the surname, name, age, sex, profession, education, job position, work address, work phone number of the concerned person without their written permission.

Article 21. Protection of organization secrets

21.1 It is prohibited to disclose a business entity's confidential information, technological solutions, project and R&D documents, information related to required equipments and machinery etc., which are related to the specifics of operations of the business entity or considered confidential and protected for the purpose of protecting its market share and strength in fair competition as specified in the section 2, Article 3 of the

Law on Business Entity's Secret and disclosure of which may cause damage to its lawful interest, to others without a written consent of the authorized person of the business entity (executive management or other person authorized by executive management).

CHAPTER FIVE

Measures to ensure the implementation of the law and monitoring of the law implementation

Article 22. Full authority of the state administrative body in charge of information and information technology matters

22.1 A government administrative body in charge of information and technology affairs shall exercise the following full rights in connection with the issue of ensuring information transparency and the right to information:

22.1.1. Develop the common regulation in relation to the data digitization, generation, dissemination and utilization of databases, guaranteeing its uninterrupted functioning, data storage and protection as specified in the Articles 7, 8.1, 9 and 10 of the present law;

22.1.2. Provide technical and methodological assistance and guidance on the data digitization, generation, dissemination and utilization of databases, guaranteeing its uninterrupted functioning, data storage and protection through conducting trainings among state bodies and organizations;

22.1.3. Any other powers vested in the state administrative body through the laws.

22.2. The regulation specified in the provision 22.1.1 of the present law shall be approved by the Government of Mongolia.

Article 23 Three. Logs

23.1 The organization specified in the provision 3.1 of this Law shall maintain record of the following things for the purpose of ensuring the possibility of monitoring implementation of the legislation of information transparency and the right to information:

23.1.1. Information seeker (both citizens and legal entities)'s name and address;

23.1.2. Information request receipt, review, release/return dates; and

23.1.3. Others.

Article 24. Monitoring of implementation of the legislation of information transparency and the right to information

24.1 The organization or official specified in the provision 3.1 of this Law shall conduct monitoring of implementation of the legislation of information transparency and the right to information within its competence specified in the laws.

24.2 A provision of ensuring information transparency shall be included in the agreement to be established with the Chief Budget Officer and General Manager and assessed as the main criterion of evaluation.

CHAPTER SIX

Miscellaneous

Article 25. Responsibility to be imposed on violators of the legislation of information transparency and the right to information

25.1 An official, who violated the legislation of information transparency and the right to information, shall be charged by the person, who appointed him or her, with a disciplinary punishment specified in the Article 26 of the Law on Civil Service.

25.2 An official, who violated citizens or legal persons' right to information repeatedly or seriously, shall be dismissed from civil service by a competent official according to the grounds specified in the provision 25.1.1 of the Law on Civil Service.

25.3 A decision making competent person, who violated the provision 25.2 of this Law, shall be fined by a judge in an amount equal to five times the minimum wage.

CHAIRMAN OF THE GREAT HURAL
(PARLIAMENT) OF MONGOLIA

D.DEMBEREL