

ACT ON DISCLOSURE OF INFORMATION BY PUBLIC AGENCIES

Act No. 5242, Dec. 31. 1996

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to ensure the people's right to know and to secure participation of the people in state affairs, and transparency in the operation of state affairs, by providing for the necessary matters concerning the obligation to disclose information possessed and managed by public agencies and the people's request for the disclosure of such information.

Article 2 (Definitions)

For the purpose of this Act, the definition of terms shall be as follows:

1. The term "information" means the items drawn up or obtained and managed by the public agencies in the course of the performance of their duties, which are recorded in documents, drawings, pictures, films, tapes, slides and media which are processed by computers, etc.:
2. The term "disclosure" means allowing the inspection of information, or distribution of the copies or reproductions thereof by the public agencies, pursuant to the provisions of this Act; and
3. The term "public agencies" means the state, local government, government—invested institutions pursuant to the provision of Article 2 of the Framework Act on the Management of Government Invested Institutions, and other institutions determined by the Presidential Decree.

Article 3 (Principle of Information Disclosure)

The public agency shall make available to the public the information possessed and managed by the same public agency pursuant to the provisions of this Act.

Article 4 (Scope of Application)

- (1) This Act shall apply to disclosure of information, except as otherwise provided by other Acts.
- (2) With regard to its official duties, the local government may formulate the Municipal Ordinance concerning the disclosure of information within the scope of Acts and subordinate statutes.
- (3) This Act shall not apply to information created or collected for the purpose of analyzing information related to national security by the institutions in charge of the information and confidential service related to national security and security matters.

Article 5 (Duties of Public Agencies)

- (1) The public agencies shall apply this Act and maintain other related Acts and subordinate statutes in such a manner so as to uphold the rights of the people requesting disclosure of information.
- (2) The public agencies shall maintain the information management system in such a manner as to make the information available for appropriate preservation and prompt search.

CHAPTER II HOLDER OF RIGHT TO REQUEST DISCLOSURE OF INFORMATION AND INFORMATION OF NON-DISCLOSURE

Article 6 (Holder of Right to Request Disclosure of Information)

- (1) The people shall hold the right to request disclosure of information.
- (2) The matters related to the request for disclosure of information by foreigners shall be prescribed by the Presidential Decree.

Article 7 (Information of Non-Disclosure)

- (1) The public agencies may decide not to disclose information falling under any of the following subparagraphs
 1. Information maintained as secrets or provided as non-disclosable by other Acts, or by the Decrees or Ordinances issued under such Acts:
 2. Information which could, if disclosed, harm major national interests in such fields as national security, national defense, unification or diplomatic relations:
 3. Information which could, if disclosed, substantially harm the lives, bodies and properties of the people, and other public safety or interests:
 4. Information related to the prevention and investigation of crimes, institution and maintenance of public prosecution, execution of sentences, correction, security measures, and pending litigations which could, if disclosed, substantially hamper the performance of duties or violate the criminal defendant's right to a fair trial'
 5. Information related to audit, supervision, inspection, examination, regulation, bid contract, development of technology, personnel management, decision making process, or internal review process which, could if disclosed, substantially hamper the fair performance of duties, studies and development
 6. Personal information which could identify a particular individual by the use of the name, resident registration number, etc. included in such information: *Provided*, That the following personal information shall be excluded:
 - (a) Information which available for public inspection in accordance with Acts, subordinate statutes, etc.:
 - (b) Information drawn up or obtained by the public agencies which is subject to public notification: and
 - (c) Information drawn up or obtained by the public agencies disclosure of which is necessary in order to remedy public interests or private rights.
 7. Information related to trade secrets of the corporations, associations or individuals which could, if disclosed, substantially harm their proper interests: *Provided*, That the following information shall be excluded:
 - (a) Information which is needed to be disclosed for the protection of the lives, bodies or health of the individuals from the dangers arising due to business operations and
 - (b) Information which must be disclosed for the protection of the property or everyday routines of individuals from unlawful or improper business operations.
 8. Information which could, if disclosed, benefit or harm particular individuals, due to real estate speculations or cornering and hoarding practices, etc.
- (2) If the information falling under any of subparagraphs of paragraph (1) becomes suitable for disclosure due to the passage of time, etc., the public agencies shall render such information available for disclosure.

CHAPTER 111 PROCEDURE OF DISCLOSURE OF INFORMATION

Article 8 (Methods of Request for Disclosure of Information)

(1) The person making a request for disclosure of information (hereinafter referred to as the “requester”) shall submit a written request for disclosure of information stating the matters of the following subparagraphs to the public agency which holds or maintains such information:

1. Name, resident registration number, and address of the requester; and

2. Content, and purpose of use, of the information requested for disclosure.

(2) The copies or reproductions of the requested information may be restricted if the requested information is well—known or the requested amount is extraordinary so that the normal performance of duties of the public agencies could substantially be hampered.

(3) The necessary matters other than the matters provided in paragraphs (1) and (2) concerning the request for disclosure of information shall be prescribed by the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the Central Election Management Commission Regulations and the Presidential Decree.

Article 9 (Decision on Disclosure of Information)

(1) The public agencies shall decide whether to disclose information within 15 days from the date of receipt of such request, in cases of the request for disclosure of information pursuant to the provisions of Article 8.

(2) If the decision may not be made within the period provided in paragraph (1) due to an unavoidable reason, the public agencies may extend the period by not more than 15 days, after the date subsequent to the expiration of the period. In such cases, the public agencies shall, without delay, notify the requester of the reason for such extension in writing.

(3) The public agencies shall, without delay, notify a third party of the fact of the request for disclosure and may, if necessary, hear the opinions related to such request, if all or any part of the information to be disclosed is related to the third party.

(4) If the public agencies do not decide on the disclosure of information within 30 days from the request for disclosure, it shall be deemed that a decision of non—disclosure has been made.

Article 10 (Information Disclosure Deliberative Committee)

(1) The public agencies shall establish and operate an information disclosure deliberative committee in order to deliberate whether to allow a disclosure of information in compliance with the provisions of Article 9.

(2) The matters necessary for the formation, operation, function, etc. of the information disclosure deliberative committee shall be prescribed by the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the Central Election Management Commission Regulations, and the Presidential Decree.

Article 11 (Notice of Decision on Disclosure of Information)

(1) The public agencies shall notify the requester of the date, place of disclosure, etc. if the decision of disclosure of information has been made in accordance with the provisions of Article 9.

(2) The public agencies may disclose copies, etc. of the information if the originals of the information could be contaminated or damaged, or reasonable grounds exist during the process of disclosure of the information in accordance with paragraph (1).

(3) The public agencies shall, without delay, notify the requester of the contents of the decision in writing, if a decision of non—disclosure has been made in accordance with the provisions of Article 9. In such cases, reasons of non—disclosure, and methods and procedures of appeal shall be stated in the notice.

Article 12 (Partial Disclosure)

If the information requested for disclosure is a combination of the part falling under any of subparagraphs of Article 7 (1) and the part capable of being disclosed, and such information may be separated without altering the nature of the request for disclosure, the part of information other than the one falling under any of subparagraphs of Article 7 (1) shall be disclosed.

Article 13 (Procedures for Disclosure of Immediately available Information)

The procedures for disclosure of the information which is available immediately or orally, shall be prescribed by the Presidential Decree.

Article 14 (Duties of Requester)

The requester shall, in conformity with the purpose of request, adequately utilize the information obtained pursuant to the provisions of this Act.

Article 15 (Expenses)

- (1) The requester shall bear actual expenses related to the disclosure, mailing of information, etc.
- (2) The expenses under the provision of paragraph (1) shall be reduced or exempted if the use of the information requested for disclosure is necessary for the maintenance and promotion of public welfare.
- (3) The matters necessary for the expenses, the collection thereof, etc. pursuant to the provision of paragraph (1) shall be prescribed by the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the Central Election Management Commission Regulations, and the Presidential Decree.

CHAPTER IV PROCEDURES OF APPEAL

Article 16 (Application for Objection)

- (1) The requester may apply for an objection in writing to the public agencies concerned, within 30 days from the date of receipt of the decision on disclosure of information from the public agencies, or the date of decision of non—disclosure in compliance with the provision of Article 9 (4), if the legal interest of the requester is violated due to the disposition or omission of the public agencies concerning the disclosure of information.
- (2) The public agencies shall decide on the application for an objection within 7 days from the date of receipt of such application, and, without delay, notify the requester of the decision on the application, in writing.
- (3) The public agencies shall notify the requester of the decision in accordance with the provision of paragraph (2) along with a statement to the effect that the administrative adjudication or litigation can be instituted accordingly if the application for objection is dismissed or rejected.

Article 17 (Administrative Adjudication)

- (1) If the legal interest of the requester is violated due to the disposition or omission of the public agencies concerning the disclosure of information, the requester may request an administrative adjudication in accordance with the provisions of the Administrative Appeals Act. In such cases, the ruling authorities on the disposition or omission made by the public agencies other than the state or local governments, shall be the heads of central administrative agencies concerned.
- (2) The requester may request an administrative ruling without going through the procedures for application for objection pursuant to the provisions of Article 16
- (3) The member of the administrative appeals commission who is involved in the administrative

ruling concerning the decision on disclosure of information may not reveal the secrets obtained in relation to official duties during and after expiration of his commission.

(4) In the application of penal provisions of the Criminal Act and other Acts, the members of the commission mentioned in paragraph (3) shall be deemed as public officials.

Article 18 (Administrative Litigation)

(1) The requester may lodge an administrative litigation in accordance with the provisions of the Administrative Litigation Act, if his legal interest is Violated due to the disposition or omission of the public agencies in connection with the disclosure of information.

(2) The presiding judge may, if necessary, review and inspect the information requested for disclosure in a closed setting, in the absence of the parties concerned.

(3) If the object of litigation is related to the disposition of the decision of non—disclosure of the information concerning national security, national defense and diplomacy among the information pursuant to the provisions of Article 7 (1) 2 and if the public agencies show the procedures for designation as secrets the class, kind and nature of secrets, actual reasons for treatment as secrets and causes for non—disclosure, the presiding judge may excuse the submission of the information concerned.

Article 19 (Application for Objection, etc. by Third Party)

(1) The third party who has been notified of the request for disclosure pursuant to the provision of Article 9 (3) may request the public agency concerned for non—disclosure within 3 days from the date of receipt of the notice.

(2) If the public agencies which have been requested for non—disclosure under the provision of paragraph (1) wishes to disclose the information against the wishes of the third parties concerned, they shall notify in writing the causes for disclosure, and the third party who has been notified may apply. in writing, for an objection, or institute an administrative adjudication or an administrative litigation against the public agency concerned. In such cases, the application for objection shall be made within 7 days from the date of receipt of the notice.

(3) The provisions of Articles 16 (2) and (3). 17 (1) (latter part) and (2) though (4). and 18 (2) and (3) shall be applicable *mutatis mutandis* to the application for objection, administrative adjudication and administrative litigations under the provision of paragraph (2). In such cases, the ‘requester’ shall be read as the “third party”, respectively.

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 20 (Institutional Management)

The Minister of Government Administration shall oversee the planning and general activities concerning the policy-making and institutional reform of the information disclosure system under this Act.

Article 21 (Provision of Information)

The public agencies shall actively attempt to provide the public with the information which is not requested for disclosure and which should be known to the public.

Article 22 (Preparation, Provision, etc. of Main Documents List)

(1) The public agencies shall prepare and provide the main documents list, etc., so that the general public may easily access the information for disclosure

(2) The public agencies shall secure the information disclosure site and prepare facilities for

disclosure in order to carry out the activities concerning the disclosure of information promptly and efficiently.

Article 23 (Request for Submission, etc. of Documents)

(1) The Secretary General of the National Assembly Secretariat, head of the Office of Court Administration, Secretary General of the Constitutional Court, Secretary General of the Central Election Management Commission, and Minister of Government Administration may, if necessary, request the public agency concerned for such cooperation as submission of documents concerning the disclosure of information.

(2) The Minister of Government Administration may, if necessary for efficient operation, inspect and review the operational status of the information disclosure system with respect to public agencies (exclusive of the National Assembly Secretariat, Office of Court Administration, Constitutional Court, and Central Election Management Commission).

Article 24 (Provisions concerning Delegation)

The matters necessary for the enforcement of this Act shall be prescribed by the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the Central Election Management Commission Regulations, and the Presidential Decree.

ADDENDUM

This Act shall enter into force one year after the date of its promulgation.