

Republic of the Sudan
National Assembly
The Chairman

Date: Jumada al-awwal 6, 1436 AH
Corresponding to: February 25, 2015 CE

No: m w/m v m/1/b/4

Dear Sir

May peace and God's mercy and blessings be upon you

Subject: Right to Access Information Law of 2015

Pursuant to article 56(5) of the National Assembly regulations of 2010, I transmit to you enclosed herewith the aforementioned law, which was ratified by the National Assembly in its meeting no. 37 of the tenth session on January 27, 2015.

I kindly request you to publish it as law in the official gazette following its signing by the President of the Republic.

May God grant you success

Signature

Dr. Al-Fatih Ezzedine Al-Mansour
National Assembly Speaker

Addressed to:

Mr. Mohammed Bushara Dousa
Minister of Justice

Copy to:

Minister of the Presidency Affairs
Minister of the Presidency of the Council of Ministers
Minister of Sciences and Culture
Legal Counsel of the National Assembly
Public Counsel for Legislation at the Ministry of Justice

Tenth Session
Right to Access Information Law of 2015

Pursuant to the provision of the interim Constitution of the Republic of the Sudan of 2005, the National Assembly ratified, and the President of the Republic signed the following law:

Chapter I

Introductory Provisions

Title of the law and effective date

1. This law is called “Right to Access Information Law of 2015” and it is effective as of the date of signing.

Interpretation

2. In this law, unless context otherwise requires:

| | |
|-----------------------------------|---|
| “ information ” | means data, texts, images, diagrams, sounds, symbols, databases, and the like regardless of their form, source, date of creation, legal status or storage method; |
| “ the Commission ” | means the Commission for the Right to Access Information established by virtue of article 4; |
| “ information officer ” | means the person with special responsibilities by virtue of article 9(2); |
| “ classified information ” | means any information that is secret in nature in accordance with the provisions of effective laws; |
| “ enforcement orders ” | means the orders issued by the Commission regarding complaints and appeals brought before it; |
| “ competent minister ” | means the minister determined by the President of the Republic; |
| “ the commissioner ” | means the chief executive officer of the unit of access to information and appointed by virtue of article 6; |
| “ public institution ” | means any institution from which information is requested and mentioned in article 9. |

Chapter II

The Commission's Goals and Purposes

3. The Commission aims to ensure the right of access to:
 - 1) Information maintained by State bodies in accordance with the various levels of government of any person or any party that requests it with exceptions applied only in an exclusive and specific manner.
 - 2) Ensure and facilitate the citizen's right to access information, and expand and exercise the principles of rights and freedoms.
 - 3) Reinforce the essential components of transparency, distribute opportunities of active and responsible participation and enable the society to build its capacities.

Chapter III

The Commission

Establish the Commission and its head office, and exercise oversight of it

4.
 - 1) By virtue of this law, a commission called the "Commission for the Right to Access Information" shall be established; it shall have legal personality, perpetual succession and a public seal.
 - 2) The Commission shall include one full-time commissioner and seven members with the necessary expertise, skills and competence on a part-time basis.
 - 3) The Commission is subject to the oversight of the competent minister.
 - 4) The head office of the Commission shall be located in Khartoum State and it may establish branches in other states.

The Commission's competences

5.
 - 1) The Commission shall assume the following functions and competences:
 - a) Ensure the provision of information to the persons requesting it within the scope of the law.
 - b) Oversight and periodic review of each public institution, and verification of the extent to which they provide access to their information in accordance with this law.

- c) Examine the complaints lodged by persons requesting access to information and seek to settle these complaints in accordance with the regulations.
 - d) Foster and disseminate a culture of access to information, and undertake the appropriate activities to explain and reinforce the culture of access to information.
 - e) Compel the various public institutions to publish their necessary information.
 - f) Adopt forms for requests for information.
 - g) Ratify the annual report about its activities submitted by the Commissioner and refer it to the competent minister.
 - h) Propose relevant legislation.
 - i) Produce estimates of the fees and impose them on the services rendered regarding a request for information.
- 2) The Commissioner, upon a decision issued by him, forms technical committees and defines their competences and functions to help him in implementing the provisions of this law, and those committees may establish internal rules to regulate their activities.

Chapter IV

The Commissioner

Appointment of the Commissioner

6. The Council of Ministers appoints a commissioner from among those with the necessary expertise and competence, based on a recommendation from the competent minister, to perform the duties, implement the jurisdiction and exercise the powers stipulated in this law, and the decision shall define his allocations.

The competences and powers of the Commissioner

7. The Commissioner shall oversee operational activities relating to the enforcement of the right to access information and oversight, and, without prejudice to what to the above, the commissioner shall have the following competences:

- a) Develop and implement the programs, plans and policies relating to the defense of the right of individuals and legal persons to obtain and access information and offer counsel to them.
- b) Monitor violations, and publish reports and studies that contain the obstacles to exercising the right to obtain and access information and how to overcome them;
- c) Draft recommendations relating to receiving complaints and procedures for settling, lodging and issuing them;
- d) Oversee all financial and administrative matters of the Commission while monitoring its proper performance in accordance with State's policies and directives;
- e) Provide advice and counsel to the institutions concerned by this law on how to store and archive data and information, and compel them to act on them;
- f) Organize the Commission's procedures, keeping its records and correspondence;
- g) Prepare the proposals of the annual budget and submit them to the competent minister for approval and ratification;
- h) Prepare the proposals for the request for information forms;
- i) Draft an annual report in December of each year about the Commission's activities in the ending year, to be adopted by the competent minister to be a reference for the Commission's work, with a copy sent to the competent minister and all the parties represented in the Commission;
- j) Implement and follow on the decisions and directives of the competent minister;
- k) Represent the Commission for the Right to Access Information within and outside the Sudan;
- l) Any other functions to be defined in the regulations as part of the Commission's scope of work.

Appealing the Commissioner's decisions

8. The decisions of the Commissioner or of any of his committees may be appealed with the competent minister within two weeks, and the applicant may resort to the judiciary to appeal the competent minister's decisions within two months from notification of the decision.

Chapter V

Obtaining Information

The right to access and obtain information

9. 1) Any person has the right to access and obtain information from their primary sources from government bodies and units at all levels, public-sector institutions, public joint-stock companies, and companies in which the government participates whatever its equity stake and any public institution deemed by the competent minister to have activities similar to those of the public sector and civil society organizations.
- 2) Each public institution must appoint an employee specializing in information to be called “information officer” and to be in responsible for the following:
 - a) The necessary powers for searching for and accessing the requested information,
 - b) Examining the requests for access to information,
 - c) Maintain and preserve of information,
 - d) Publish the procedures, forms and the required fees with the approval of the Commissioner to facilitate access to them.

Procedures to access and obtain information

10. To obtain information, the following procedures shall be taken:
 - a) Submit an application to the entity that maintains the information requesting it subject to the exceptions stipulated in article 12,
 - b) The request for information shall be submitted in writing to the information officer at the public institution, and this application shall include a description of the details to determine whether the public institution maintains a document that contains this information; if the public institution indeed maintains that information, it shall be turned over to the applicant in accordance with article 11,
 - c) A person who is not able to submit a written application to obtain information—if he cannot read or write or is disabled—can then submit an application orally to be noted down by the information officer at the public institution, with the names of the applicant and the information officer at the public institution and his title, and he shall give a copy of the application to the applicant,

- d) The public institution can impose a form for requests for information provided that these forms do not delay the response or represent an unnecessary burden on the applicants,
- e) The public institution that receives a request for information must provide the applicant with a statement of receipt,
- f) In the case where the application is rejected, the rejection decision must be reasoned and not responding within the determined time limits is deemed to be a rejection decision,
- g) The public institution can impose fees with the approval of the Commissioner reflecting the cost of providing or preparing the information requested.

Time limits for responding to applications

11. 1) A public or private institution, civil society organizations, and others must respond to a request for information within the shortest possible time limits that should not exceed two weeks from the date of submitting the application.
- 2) If the submitted application contains information necessary to protect the life or freedom of a individual, the public institution must submit the information requested immediately to the applicant in a period not exceeding two days from the date of receipt of the application.

Information excepted from disclosure

12. Disclosure of information relating to the following shall be excepted from the implementation of the provisions of this law:
- a) Secrets and documents protected by virtue of any other legislation,
 - b) The documents classified as confidential and privileged, and those that are obtained in agreement with another state,
 - c) Secrets relating to national defense or state security, or its foreign policy if fifty years has not passed since their creation,
 - d) Information that contains an analysis, recommendations, proposals or consultations submitted before a decision has been made regarding them, and this includes

correspondence and information exchanged between the concerned parties in that matter,

- e) Personal information and files, and those relating to people's educational or medical records, employment records, accounts, bank transfers, or professional secrets, and information of a commercial, industrial or economic nature relating to the procedures of tenders, or scientific or technical research the disclosure of which leads to the infringement of copyright, intellectual property or fair and legitimate competition, or leads to unlawful profit or loss for any person,
- f) Correspondence of personal and secret nature, whether by mail, telegram, telephone or any other technological means,
- g) Information the disclosure of which leads to influencing any ongoing negotiations,
- h) Investigations conducted by judicial bodies or security bodies relating to any crime or case within their jurisdiction, in addition to the investigations conducted by the competent authorities to uncover financial and customs or bank violations if the relevant body does not authorize their disclosure,
- i) Any information obtained by the public institution from another institution privately and in confidence,
- j) Information that contains trade secrets or information that may lead to commercial damages,
- k) Any information that have a date of publication already established for the current year.

Chapter VI

Operational Procedures

13. 1) For the purposes of the Commissioner performing his functions, he shall enjoy the following powers:
- a) Access to periodic reports from the entities specified in this law upon his request,
 - b) The right to enter any public institution and inspect its records, papers any proof relating to the requested information,
 - c) Question any employee with the aim of accessing the requested information,

- d) Question any person who has concealed, destroyed, falsified or altered information in a way that misrepresents it with the intention of evading submitting it to those requesting it.
- 2) The Commissioner shall, in accordance with the regulations by virtue of a decision issued by him, determine the following:
- a) The procedures to follow in examining and settling complaints, and organizing appeals, and the time limits for completing them,
 - b) Enforcement orders within the time limit defined in the regulations,
 - c) Compliance with the Commissioner's notifications and warnings,
 - d) The power to enter and inspect, and its procedures,
 - e) The obligation to notify the Prosecutor General's office in the case of failure to implement the enforcement order.

Chapter VII

Financial Provisions

Financial resources, budget, accounts and audit

Financial resources

14. The financial resources of the Commission are made up of:
- a) The appropriations allocated by the State,
 - b) Contributions from institutions and individuals,
 - c) The funds it obtains as a result of the services it renders,
 - d) Any other resources accepted by the Commission with the approval of the competent minister.

The Commission's budget

15. The Commission shall have an independent budget to be set in accordance with sound accounting principles decided by the State, and the Commission must submit to the relevant bodies before the end of each financial year the annual budget containing the revenues and expenses for the following financial year for approval.

Accounts and audit

16. 1) The Commission shall keep its accounts and books in accordance with the Financial and Accounting Procedures Law of 2007.
- 1) The National Audit Chamber or the entity delegated shall audit the Commission's accounts.
 - 2) The Commission shall submit the annual report and the report of the national auditor to the Council of Ministers.

Chapter VIII

General Provisions

Supremacy of the provisions of the law

17. The provisions of this law shall supersede any other law that conflicts therewith to the extent that would eliminate this inconsistency.

Violations and sanctions

18. 1) Any person who deliberately undertakes the following shall be deemed to be a perpetrator of a crime:
- a) Prevent access to or obtaining any information by virtue of the provisions of this law,
 - b) Destruction, alteration, falsification, deletion, with or without purpose, of information or documents from a competent authority.
- 2) Any person who violates the provisions of this law or the regulations issued under it shall be punished with imprisonment for a term not exceeding two years, a fine, or both punishments.

The Authority to issue regulations

19. The Commissioner shall issue, with the approval of the competent minister, the necessary regulations and orders to implement the provisions of this law.

Attestation

I hereby attest that the National Assembly ratified the Right to Access Information Law of 2015 in its meeting no. 37 of the tenth session on Rabi al-thani 6, 1436 HA, corresponding to January 27, 2015 CE. In addition, the permanent joint committee of the two councils decided in its meeting no. 10 on Rabi al-thani 13, 1436 HA, corresponding to February 3, 2015 CE, that this law does not affect the interest of the states.

Signature

Dr. Al-Fatih Ezzedine Al-Mansour**National Assembly Speaker****Head of the Permanent Joint Committee of the Councils**

Signature

I approve:

Field Marshall Omar Hassan Ahmad al-Bashir**President of the Republic****Date: Jumada al-Awwal 3, 1436 HA****Corresponding to February 22, 2015 CE**