

As
~~[TO BE INTRODUCED IN THE SENATE]~~

**A
 BILL**

further to amend the Right of Access to Information Act, 2017

WHEREAS it is expedient further to amend the Right of Access to Information Act, 2017 (XXXIV of 2017), for the purposes hereinafter appearing;

It is hereby enacted as follows: -

1. Short title and commencement. - (1) This Act may be called the Right of Access to Information (Amendment) Act, 2023.

(2) It shall come into force at once.

2. Amendment in Long Title, Act XXXIV of 2017.- In the Right of Access to Information Act, 2017 (XXXIV of 2017), hereinafter referred to as the said Act, in the long title, for the expression, "subject only to reasonable restrictions imposed by law" the expression, "to specify grounds on which access may be denied" shall be substituted.

3. Amendment in Preamble, Act XXXIV of 2017.- In the said Act, in the preamble in the second paragraph, in the second and third last lines, for the expression, "subject only to reasonable restrictions imposed by law" the expression, "except the information that is denied on specified grounds" shall be substituted.

4. Amendment of section 5, Act XXXIV of 2017.- In the said Act, in section 5, in sub-section (1), for the expression, "subject to reasonable restrictions based on limited resources" the expression, "under the specified grounds on which access may be provided" shall be substituted.

5. Substitution of section 16, Act XXXIV of 2017.- In the said Act, for section 16, the following shall be substituted, namely:-

"16. Specific grounds when right of access may be denied. - (1) Subject to the provisions of sub-section (2) a request under this Act for access to information shall be refused, where,-

- (a) the information relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the larger public interest justifies the disclosure of such information or the person concerned has consented in writing to such disclosure;
- (b) disclosure of such information-
 - (i) would undermine the defence of the State or its territorial integrity or national security;
 - (ii) would be or is likely to be seriously prejudicial to Pakistan's relations with any State, or in relation to international agreements or obligations under international law, where such

- information was given by or obtained in confidence;
- (c) the disclosure of such information would cause serious prejudice to the economy of Pakistan by disclosing prematurely decisions to change or continue government economic or financial policies relating to-
 - (i) exchange rates or the control of overseas exchange transactions;
 - (ii) the regulations of banking or credit;
 - (iii) taxation;
 - (iv) the stability, control and adjustment of prices of goods and services, rents and other costs and rates of wages, salaries and other income; or
 - (v) the entering into of overseas trade agreements;
 - (d) information, including commercial confidence, trade secrets or intellectual property, protected under the Intellectual Property Organization of Pakistan Act, 2012, the disclosure of which would harm the competitive position of a third party, unless the public authority is satisfied that larger public interest warrants the disclosure of such information;
 - (e) the information could lead to the disclosure of any medical records relating to any person, unless such person has consented in writing to such disclosure;
 - (f) the information consists of any communication, between a professional and a public authority to whom such professional provides services, which is not permitted to be disclosed under any written law including any communication between the Attorney General or any officer assisting the Attorney General in the performance of his duties and a public authority;
 - (g) the information is required to be kept confidential by reason of the existence of a fiduciary relationship;
 - (h) the disclosure of such information would-
 - (i) cause grave prejudice to the prevention or detection of any crime or the apprehension or prosecution of offenders; or
 - (ii) expose the identity of a confidential source of information in relation to law enforcement or national security, to be ascertained;
 - (i) the information has been supplied in confidence to the public authority concerned by a third party and the third party does not consent to its disclosure;
 - (j) the disclosure of such information would be in contempt of court or prejudicial to the maintenance of the authority and impartiality of the judiciary;
 - (k) disclosure of the information would harm the integrity of an examination being conducted by the Department of Examination or

a Higher Educational Institution;

- (l) the information is of a cabinet memorandum in relation to which a decision has not been taken; or
- (m) the information relates to an election conducted by the Election Commission which is required by the relevant election laws to be kept confidential.

(2) Notwithstanding the provisions of sub-section (1), a request for information shall not be refused on any of the grounds referred to therein, other than the grounds referred to in paragraphs (a), (b), (d), (e), (f), (g), (h) and (j) of that sub-section.

(3) Notwithstanding the provisions of sub-section (1), a request for information shall not be refused where the public interest in disclosing the information outweighs the harm that would result from its disclosure.

(4) Where a request for information is refused on any of the grounds referred to in section 16, access shall nevertheless be given to that part of any record or document which contains any information that is not exempted from being disclosed under that section, and which can reasonably be severed from any part that contains information exempted from being disclosed.”

STATEMENT OF OBJECTS AND REASONS

The Right of Access to Information Act, 2017, certainly improves the right to information law being a fundamental right of the citizens of Pakistan, but its effectiveness is often undermined due to certain provisions of the Act that create vagueness in their application, thereby causing unnecessary confusion on the other hand on the part of those authorities also who are mandated to provide information under the Act. For example, the use of expression, “subject only to reasonable restrictions imposed by law” in the long title and preamble of the Act and likewise the use of similar version, “subject to reasonable restrictions based on limited resource” in section 5 of the Act is vague. Nowhere in the Act has been delineated those reasonable restrictions mentioned in such phrases. Similar confusion also exists in the provisions mentioned under section 16 of the Act under the heading, “information exempt from disclosure”.

2. These anomalies in the Act are manipulated by many departments/concerned authorities to hide the most required information in public interest under the pretext of, “Exempt Information”. In order to eradicate these anomalies and remove vagueness in certain provisions, these amendments have been proposed, in order to ensure the maximum, application of the Right of Access to Information Act, 2017 this is indispensable to clearly define the specific grounds when this important right can be denied. This is in the best interest of justice as well.

3. The Bill has been designed to achieve the aforementioned purpose.

**SENATOR DR. ZARQA SUHARWARDY TAIMUR
MEMBER-IN-CHARGE**