



THE LAW OF MONGOLIA

16 June 2011

Government House, Ulaanbaatar

LAW ON THE INFORMATION TRANSPARENCY AND RIGHT TO INFORMATION

CHAPTER ONE GENERAL PROVISION

Article 1. The purpose of law

1.1. The purpose of this law is to regulate relations pertaining to ensuring transparency of the state, and rights of citizens and legal entities to seek and receive information.

Article 2. Legislation on the Information transparency and Right to information

2.1. The Legislation on the Information transparency and Right to information shall consist of the Constitution of Mongolia¹, the Law on the State Secret², the Law on Approval of the State classified information list³, the Law on Privacy⁴, this law and other legal acts enacted in conformity with the aforementioned laws.

2.2.

If an international treaty, to which Mongolia is a State Party, provides otherwise than this Law, the provisions of the former shall prevail.

Article 3. Scope of the law

3.1. This law regulates the following organizations financed by the state and local budget:

- 3.1.1. Secretariat of the State Great Khural(Parliament);
- 3.1.2. office of the President;

¹The Constitution of Mongolia- published at #1, "State information" bulletin, 1992.

²The Law on the State secret- published at #7, "State information" bulletin, 1995.

³The Law on approving the State secret List-published at #4, "State information" bulletin, 2004.

⁴The Law on the Personal secret-published at #7, "State information" bulletin, 1995.

3.1.3. Government Cabinet;
3.1.4. Administrative office of the National Security Council;
3.1.5. State central administrative or other state administrative organizations;

3.1.6. judiciary and prosecutor's offices of all instances;
3.1.7. Institutions established by the State Great Khural with exception of the Government Cabinet;

3.1.8. administrative offices of local municipal and self governing bodies, local government owned or partial ownership legal entities ;

3.1.9. state owned or partially owned legal entities those ;

3.1.10. Non-governmental organizations executing the particular functions of the executive branch in accordance with the section 1, article 19, Mongolian Law on Governments; and

3.1.11. Mongolian National Public Radio and Television organization.

3.2. This law shall not apply in ensuring transparency in operation of the armed forces, border protection and ~~internal troops~~, and intelligence organization.

3.3. This Law shall not apply when receiving and resolving petition, comment, complaint and statements in pursuant to the article 4 of the Law on the resolution of petition and complaints lodged by citizens to the state organizations and the public officials.

Article 4. Definition of terms

4.1. The terms found in this law shall bear the following meanings:

4.1.1. "citizen" means a citizen of Mongolia, foreign citizen lawfully residing in Mongolia, or stateless person lawfully residing in Mongolia;

4.1.2. "website" means electronic document and information placed in the internet in public domain;

4.1.3. "electronic document" means digital data that may be generated, transmitted, received and stored using computer, computer software and other similar type of tools;

4.1.4. "digital signature" means digital data, a part of the electronic document, that is generated through the crypto graphical conversion of information using digital signature personal key for the purpose of protecting digital document from forgery or modification;

⁵The Law of Mongolia on Government-published at # 3, "State Information" bulletin, 1993

⁶Law on the Resolution of application and complaint submitted by citizens to state organization and official-published at #7, "State Information" bulletin, 1995.

4.1.5. “maintenance” means a update of a certain information not less than once in 14 days;

4.1.6. “update” means a renewal of a certain information within 3 days in the event the information is amended or modified, or the information is changed in whole;

4.1.7. “placing information in an easily understandable manner” means providing complete conditions to acquaint with the information;

4.1.8. “expenses for information release” means expenses of photocopying, copying, and delivering through mail, and other required expenses for the purpose of releasing information to citizens and legal entities;

4.1.9. “repeated violation” means three or more violations of legislations on Information transparency and Right to information; and

4.1.10. “serious violation” means illegal concealment of information, forgery, tampering, and destruction of documents, and violation of citizen’s right to information in other forms that has led or may have led to significant losses by the state, citizen, business entities and other organizations.

Article 5. Principles of the activities to ensure the Information transparency and Right to information

5.1. The following principles shall apply in the activities to ensure the information transparency and right to information:

- 5.1.1. Rule of Law;
- 5.1.2. Respect for lawful interests of citizens and legal entities;
- 5.1.3. Openness of all information with exception of the state classified information in pursuant to the law.;
- 5.1.4. Impartiality ;
- 5.1.5. promptness of the information release activities.

CHAPTER TWO INFORMATION TRANSPARENCY

Article 6. Information transparency

6.1. Information transparency shall have the following categories:

- 6.1.1. Operational transparency;
- 6.1.2. Human resource transparency;
- 6.1.3. Budget and financial transparency;
- 6.1.4. Transparency in the procurement of goods, works and services by the state and local government

Article 7. Operational transparency

7.1. Unless otherwise provided in the laws, organization specified in article 3.1 of this Law shall take the following measures to ensure its operational transparency:

7.1.1. to place the organisational mission, strategic objectives, priority areas and measures implemented to achieve those objectives and priorities, outcome, and organizational structures on its website or information board in an easily understandable manner and update regularly;

7.1.2. to place the full name, position, procedure and contact details of the officer in charge for public relations, public service and timetable to receive citizens on its website and information board in an easily understandable manner and update regularly;

7.1.3. to place the list of documents required for getting services on its website and information board in an easily understandable manner and update regularly;

7.1.4. to place the legislations, rules, procedures and the guidance on its website and information board in an easily understandable manner and update regularly;

7.1.5. to place any policy document or draft decision that establishes public norms on its website in an easily understandable manner not less than 30 days, to receive comments and proposals from the relevant governmental and non-governmental organization, professional experts, scholars and citizens, and to incorporate the proposals if deems grounded;

7.1.6. to take organizational measures to improve the means and methods of the services being rendered;

7.1.7. to place in and inform the name of the non-governmental organization, which executes the particular functions of the state organization in accordance with section 1, article 19 of the Law of Mongolia on Government, and the organisation's address, web page, and direction of its activities through web page and information board in an easily understandable manner in the case of ;

7.1.8. to place the name, address and field of activities of the license holder, and issuance and expiry date of license on its website in an easily understandable manner if such organization issues license for certain types of business activities or other activities, and update regularly;

7.1.9. to place information about the implementation, progress and status of the project and program funded by the state budget, the foreign loan and aid in the sector on its website, and update regularly;

7.1.10. other information specified in legislations.

Article 8. Transparency of the human resource

8.1. Unless otherwise provided in the laws, organization specified in article 3.1 of this Law shall take the following measures to ensure its transparency of the human resource:

8.1.1. to place job vacancy announcements on its website and information board in an easily understandable manner, update regularly, and announce through public press and media;

8.1.2. to place civil servants' code of ethics on the website or information board in an easily understandable manner, and update regularly;

8.1.3. to place evaluation and monitoring regulations and procedures of the human resources strategy and its implementation on the website in an easily understandable manner and update regularly;

8.1.4. to place or inform about the measures to ensure the transparency of the human resource management on its website in an easily understandable manner;

8.1.5. to place or inform about the measures to improve the performance evaluation of employees on its website in an easily understandable manner;

8.1.6. to inform any other information specified in laws and legislations.

Article 9. Transparency of the budget and finance

9.1. The relation related to the transparency of the budget and finance of organizations specified in 3.1 of this law shall be regulated by Law on Open Account:

~~9.1.1. to place the current year's budget, previous year's financial report, the proposed budget for the coming year on its website and the Budget Transparency Website of Mongolia within the following timeframes ensuring free access to information for citizens and legal entities:~~

~~9.1.1.a. the current year's budget — before 10 January of every year;~~

~~9.1.1.b. previous year's financial report — before 01 April of every year; and~~

~~9.1.1.c. proposed budget for the coming year — before 15 August of every year.~~

~~—— 9.1.2. to place annual end of year financial report on website and information board before the 01 April of the coming year in an easily understandable way to enable citizens and civil society organizations to monitor budget spending;~~

~~—— 9.1.3. to place and inform the complete audit review of the financial report on its website and information board before 01 April of the current year;~~

~~—— 9.1.4. to place and inform any changes and amendments to the budget of the current year if exists within 14 business days in an easily understandable manner;~~

~~—— 9.1.5. to collect payments and fees only specified in the law from customers and place its amount on its website and information board in an easily understandable manner and update regularly;~~

~~—— 9.1.6. to inform other information specified in laws and legislations.~~

~~—— 9.2. State administrative organization in charge of state property shall make the following information available in addition to the information specified in article 7, 8, 9.1 and 10 of this Law through national daily publications and other media and on its website and information board in an easily understandable manner:~~

~~—— 9.2.1. A list of concession items and any changes and amendments made to it – within 14 business days after their approval;~~

~~—— 9.2.2. A concession agreements and changes and amendments made to it – within 14 business days after their execution; and~~

~~—— 9.2.3. Information on every concession agreement with exception of the classified information and concession item, works or services to be rendered – within 14 business days~~

~~—— 9.3. State administrative organization in charge of social insurance and other state administrative organizations shall make the list of individuals entitled for pensions, benefits and payments from social insurance fund available specifying their last name and first name in addition to the information specified in article 7, 8, 9.1 and 10 of this Law through on their website in an easily understandable manner and update regularly.~~

Article 10. Transparency in the procurement of goods, works and services by the state and local government financing

10.1. The relation related to the transparency of procurement of organization specified in article 3.1 of this Law shall be regulated by Law on Open Accounts:

~~10.1.1. to pursue the procurement policy based on the principles of transparency, fairness, efficiency and accountability, and publicly inform either through its website or any other means;~~

~~—— 10.1.2. to place bid documents, regulations concerning the bid selection process, and the bid invitation on its website and information board, update regularly, and publicly announce through press and media in accordance with~~

~~article 21 of the Law on the procurement of goods, works and services by the state and local government financing⁷;~~

~~—— 10.1.3. to place the criteria for the selection bidders, and grounds of selecting the winner on its website and information board in accordance with the relevant laws and legislations in an easily understandable manner, and update regularly;~~

~~—— 10.1.4. to place the brief information on both successful and unsuccessful bidders, as well as the detailed information about the legal ground, condition and reason of their successful and unsuccessful participation on its webpage, and update regularly;~~

~~—— 10.1.5. to place the report on the procured goods, works and services on its website and update regularly;~~

~~—— 10.1.6. to inform the relevant organization in a timely manner of any violations or infringements detected during the bid selection process;~~

~~—— 10.1.7. to place the procurement audit report and conclusion, and other monitoring reports on its website and information board in an easily understandable manner and update regularly;~~

~~—— 10.1.8. to inform other information specified in laws and legislations.~~

CHAPTER THREE PROCEDURE TO access AND TO PROVIDE WITH INFORMATION

Article 11. To receive information

11.1. Citizens and legal entities shall be entitled to receive the following information except the information prohibited by law to publicly disclose for the purpose of ensuring human rights, freedom, national security, and organization's lawful interest from the organization specified in article 3.1 of this law:

11.1.1. all types of information, documents, agreements and contracts in possession of the organization;

11.1.2. Information related to the property in possession of the organization; and

11.1.3. Any other information related to the activities of the organization.

⁷ Law on the Procurement of goods, works and services by the state and local government financing –published at #48, "State Information" bulletin, 2005.

11.2. Any official of the organization, specified in article 3.1 of this law, with mandate to receive a request for information from the citizen and legal entity is prohibited to make any other requirements not specified in this law.

11.3. The request for information by the citizen and legal entity shall meet the following requirements:

11.3.1. to provide information of his/her full name, address, e-mail address, telephone number, number of national ID or its equivalent and signature in case of a citizen,;

11.3.2. to provide name, address, e-mail address and the state registration number of the legal entity, and the signature of the competent person authorized to represent the legal entity, in case of a legal entity,;

11.4. In case a citizen is unable to sign due to a reasonable excuse as specified in article 11.3.1 of this law, others may be authorized to sign on his/her behalf, and if citizens made joint request, all the citizens shall sign or their representative shall sign and attach evidencing document of his/her power to represent.

Article 12. Rights and obligations of the person who request information

12.1. An information requesting party shall have the following rights in exercising his/her rights:

- 12.1.1. to be equal;
- 12.1.2. to choose the means to receive information;
- 12.1.3. shall not have obligation to explain the need and ground of requesting information;
- 12.1.4. to receive additional reference on issues related to information;
- 12.1.5. to have oral explanation made on the content of the information;
- 12.1.6. to know the official source of the information;
- 12.1.7. if deems his/her right to receive information is violated, to make complaint to the respective organization and official;
- 12.1.8. any other rights specified in the laws.

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

12.2.1. to comply with the procedure to receive information specified in the laws;

12.2.2. not to violate the Constitution of Mongolia, other laws, rights and lawful interests of others when exercising his/her right to receive information; and

12.2.3. to articulate the required information realistically .

Article 13. Review of the request

13.1. An official who received the request from citizen and legal entity for information ("Request") shall examine the request as follows:

13.1.1. if the request meets the requirements specified in article 11.3 of this law;

13.1.2. to check the accuracy of the personal information related to the citizen and legal entity using Number of national ID or its equivalent document;

13.1.3. to check whether the required information is in the possession of the organization, if not to transfer the request to the relevant organization within 2 business days and inform the citizen and legal entity about the transfer;

13.1.4. to check if there is a ground specified in article 18 of this law.

13.2. The request shall be turn in on the following grounds in addition to the grounds specified in article 18 of this law:

13.2.1. a request fails to meet the requirements specified in article 11.3 of this law; and

13.2.2. information mentioned in the request is not in possession of the organization, and it deems impossible to transfer the request to relevant organization.

13.3. When turning in the request, the reason and ground shall be clearly specified.

Article 14. Release of information

14.1. An organization specified in article 3.1 of this law is obliged to release information related to the activities of the organization, except the information prohibited publicly disclose as specified in the laws and legislations, to citizens and legal entities.

14.2. An organization specified in article 3.1 of this law shall establish facility to meet citizens, and a timetable to receive request and publicly inform of it.

14.3. An organization specified in article 3.1 of this law is prohibited to illegally destroy information in its possession and infringe rights of citizen to exercise his/her right to receive information.

14.4. An organization specified in article 3.1.10 of this law shall be obligated to release the following information in public domain :

14.4.1. information that reflects or indicates the existing or potential impact of the activities, manufacturing, servicing, equipments and technology used by the organization on the environment and health of the population;

14.4.2. information specifying the harmful impact of all types of poisonous or radio active substances, those are in the possession of the organization, which might damage the environment and health of the population, in the event the procedures of storage and protection is violated; and

14.4.3. Any other information which is to be publicly disclosed as required by laws.

14.5. An organization specified in article 3.1.10 of this law is obliged to approve the list of its secrets and publicly inform of it.

14.6. Information may be provided orally, in written and electronically, and citizen and legal entity may examine the information in person.

14.7. A request whose response can be immediately provided shall be resolved and responded immediately.

14.8. Unless otherwise provided by laws, information shall be given within 7 business days to a citizen and legal entity who have made the request and if the request is made jointly, the information shall be given to any one of the citizens on their behalf.

14.9. If deems necessary, period specified in article 14.8 of this law may be extended once by 7 days.

14.10. Date on which the request was responded, name of the official who prepared the response and the form of the information shall be noted in the record and stored.

Article 15. Receipt and release of information in electronic form

15.1. A citizen and legal entity may request to receive information in an electronic form.

15.2. In the event the request is made to receive information in an electronic form, citizen and legal entity shall prepare electronic document and include digital signature, a number of its own national ID or equivalent document and send the information through e-mail.

15.3. In the event the information is provided to citizen and legal entity in electronic form, the respective official of the organisation shall prepare electronic document including his/her digital signature and send the information through e-mail to the person who made the request.

15.4. When releasing information in electronic form, the procedures specified in articles 11-14 of this law shall be complied with.

Article 16. Service fee

16.1. The service fee shall apply for citizens and legal entities receives information.,.

16.2. The amount of service fee specified in article 16.1 of this law shall be established by the management of the organization in commensurate with the expenses to be incurred in relation to the release of such information, and the calculation methodology and procedures for the payment of such fees, its discount and waiver shall be approved by the Government of Mongolia.

16.3. The service fees specified in article 16.1 of this law shall not be imposed at the same time with other service fees.

16.4. The amount of service fees shall not exceed the direct expenses related to release of such information such as copying and delivery through mail.

Article 17. Making complaints, and reviewing and resolving complaints

17.1. Complaint may be made on the action or in-action of the organization and official who have violated the rights of citizens and legal entities to receive information to higher level organization or official, the National commission for Human rights, or court.

17.2. The relations related to the resolution and consideration of the complaints specified in article 17.1 of this law shall be regulated by the following laws:

17.2.1. Law on the resolution of application and complaint submitted by the citizens to state organization and official, Administrative procedure Code⁸, and Civil Procedure Code⁹ if the complaint is made to higher level organization or official;

17.2.2. Law on the National Commission for Human Rights of Mongolia¹⁰ if the complaint is made to National Commission for Human Rights; and

17.2.3. Administrative Procedure Code and Civil Procedure Code if the complaint is filed to court.

CHAPTER FOUR PROHIBITIONS IN RELEASING CERTAIN TYPES OF INFORMATION TO CITIZENS AND LEGAL ENTITIES

Article 18. Special circumstances

18.1. In the following circumstances, it is prohibited to disclose the information to others:

⁸ Administrative Procedure Code- published at #3, "State Information" bulletin, 2003.

⁹ Civil Procedure Code- published at #8, "State Information" bulletin, 2002.

¹⁰Law on the National Commission for Human Rights of Mongolia-published at #48, "State Information" bulletin, 2000.

18.1.1. if there are well-grounded reasons that the public release of the concerned information might be detrimental to the national security and public interest of Mongolia;

18.1.2. if the concerned information is related to matters under review by the Mongol Bank, the Financial Regulatory Commission, state administrative organizations in charge of competition or specialized inspection;

18.1.3. if it is necessary to protect the secrets of state, organization and individual during the process of inquiry, investigation and prosecution;

18.1.4. if the concerned information is related to the process of concluding international treaty or agreement; and

18.1.5. others specified in laws and legislations.

Article 19. Intellectual property protection

19.1. It is prohibited to disclose intellectual property related information without the permission by the owner.

Article 20. Protection of personal secrets

20.1. Unless otherwise provided by law, if individual has not agreed in written, it is prohibited to disclose his/her information except the information of his/her parents' name, first name, age, gender, profession, education, official position, work address and telephone number.

Article 21. Protection of organization's secret

21.1. It is prohibited to disclose, without the written permission given by the respective official of the business entity (executive management or other persons to whom the authority is given to), secret information, technological solution, project, research document and other information related to required machineries and equipments, whose disclosure might be detrimental to the lawful interest of the organization, or those taken under its confidentiality or protection for the purpose of protecting its market and advantage in the fair competition, or those related to the unique activities of the organizations and business entities specified in article 3.2 of the Law on Organization's secret.

CHAPTER FIVE ORGANIZING AND OVERVIEWING THE IMPLEMENTATION OF THE LEGISLATION

Article 22. Powers of the State administrative organization in charge of information technology issues

22.1. State Administrative organization in charge of Information technology shall exercise the following powers with regard to ensuring information transparency and right to information:

22.1.1. to put information specified in articles 7, 8.1, 9 and 10 into electronic form, create information base, distribute, use and prepare common regulation to ensure the reliability of their un-interrupted operation, storage and protection;

22.1.2. to organize training among state organizations and provide professional and methodological assistance on the issues of storing information into electronic form, creating information base, distribution, use, and ensuring the reliability of their un-interrupted operation, storage and protection; and

22.1.3. other powers provided by in laws and legislations.

22.2. The regulation specified in article 22.1.1 of this law shall be approved by the Government.

Article 23. Record keeping

23.1. An organization specified in article 3.1 of this law shall keep the record in order to ensure the possibility to monitor the implementation of the laws and legislations on information transparency and right to information, and the record shall reflect the following:

23.1.1. name and address of the citizens and legal entities those made the request;

23.1.2. time on which the request for information is received, reviewed and returned, and information is provided; and

23.1.3. others.

Article 24. Monitoring the implementation of the legislations on Information transparency and right to Information

24.1. An organization and official specified in article 3.1 of this law shall organize the monitoring over the implementation of the legislation on the Information transparency and right to information within the powers specified in laws.

24.2. Measure to ensure the information transparency shall be reflected in the result-based contract between the chief budget manager and the general manager and it shall be considered as an one of the evaluation criteria points.

CHAPTER SIX MISCELLANEOUS

Article 25. Sanctions on the violators of the legislations on information transparency and right to information

25.1. Any one of the disciplinary liabilities, those are provided in article 26 of the Law on Civil Service¹¹, shall be imposed on the civil servant, considering the characters of the violation, who violated the laws and legislations on the Information transparency and right to information by the competent authority who appointed the civil servant.

25.2. A civil servant who repeatedly or seriously violated the right of the citizen and legal entity to receive information shall be dismissed from his job on the ground specified in article 25.1.1 of the Law on Civil Service by the competent official.

25.3. A judge shall fine the respective decision making person who violated the article 25.2 of this law by tugrugs equal to five times the minimum labor wage.

**SPEAKER OF THE STATE GREAT
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¹¹Law on the Civil Service- published at #28, "State Information" bulletin, 2002.