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APPENDICES

APPENDIX A

Draft of Freedom of information act whose official name is the Openness of Public Information
Act passed on April 3, 2008.

REPUBLIC OF INDONESIA ACT,

NUMBER.....OF

PUBLIC INFORMATION TRANSPARENCY

WITH THE BLESSING OF THE ONE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering :

- a) that information is a basic need of every person to develop their personality as well as their social environment, and is a significant part of the national security;
- b) that the right to obtain information is a human right and transparency of public information is a significant characteristic of a democratic state that holds the sovereignty of the people in high esteem, to materialize good state management;
- c) that transparency of public information is a mean to optimize public supervision on the organizing of the state and other public agencies and everything that affects the interest of the public;
- d) that public information management is an effort to develop an informative society;
- e) that based on the consideration as referred to in letter a, letter b, letter c, and letter d, it is necessary to issue a Law regarding public information transparency.

Recalling : Article 20, Article 32, Article 28 F, and Article 28 J of the *1945* constitution of the Republic of Indonesia.

By Mutual Consent

THE PARLIAMENT OF THE REPUBLIC OF INDONESIA AND

and

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

decides:

**To stipulate: THE LAW REGARDING TRANSPARENCY OF PUBLIC
INFORMATION**

CHAPTER I

GENERAL PROVISION

Definition

Article 1

In this Law:

1. Information means the information, statement, ideas and signs having a value, meaning and message, be it data, fact and clarification that can be seen, heard and read, and are presented in various packages and formats, in accordance with the development of the information and communication technology, both electronically and non-electronically.
2. Public information means information that is produced, stored, managed, sent and/or received by a Public Agency relating to the organized and the organizing of the state and/or the organizer and the organizing of other Public Agencies pursuant to this law and other information pertaining to the interest of the public.

3. Public Agency means executive, legislative, judicative and other agencies whose function and main duties are related to the organizing of the state, where part or all of its funds originate from the state budget and/or the regional budget, or a non-governmental organizations that part or all of its fund original from the state budget and/or the regional budget, the contribution from the people and/or from overseas source.
4. Information commission means an independent body whose function to implement this Law and its enabling regulation(s), to provide the standard technical directives for Public Information service and to settle Public Information Disputes through mediation and/or non-litigation adjudication.
5. Public Information Dispute means dispute between a Public Agency and the User of Public Information pertaining to the right to obtain and to use information based on the Law.
6. Mediation means the settlement of a Public Information Dispute between the parties hereto with the assistance of a mediator of the Information Commission.
7. Adjudication means the settlement process of a Public Information Dispute between the parties, and is decided by the Information Commission
8. Public Officer means a person who is appointed and assigned with the duty to hold a specific position or title in a Public Agency.
9. Information and Documentation Manager means an officer who is responsible for the storage, documentation, supply and/or information service at a Public Agency.
10. Person means an individual, a group of people, a corporate body or a Public Agency as referred to in this law.
11. Public Information User means a person who is the user of the Public Information as regulated in this law.

12. Public Information Applicant means an Indonesian citizen and/or an Indonesian corporation that applies for Public Information as regulated in this law.

CHAPTER II

PRINCIPLES AND OBJECTIVES

Part One

Principles

Article 2

- (1) Every Public Information is open and accessible by every User of Public Information.
- (2) An exception to the Public Information is restrictive and limited
- (3) Every Public Information Applicant shall be able to obtain Public Information in fast, prompt, simple manner, and at low cost
- (4) Public Information that is exempted shall be treated as confidential information pursuant to the Law, ethics, and the interest of the public, based on an examination in terms of the consequences that occur if the information is provided to the public and after careful consideration that covering up Public Information may protect a larger interest rather than opening it or vice versa.

Part Two

Objectives

Article 3

This law is aimed at the following:

- a. To secure the right of the citizens to know public policy planning, public policy programs, and the process of public decision-making, as well as the reason of the concerning public decision-making.
- b. To encourage public participation in the process of a public policy-making;
- c. To increase the active role of the people in public policy-making and in good Public Agency management;
- d. To materialize good governance, that it transparent, effective and efficient, accountable and responsible.
- e. To know the rationale of a public policy that affects the life of the people;
- f. To develop sciences and to increase the knowledge of the nation; and/or
- g. To enhance the information management and service at public Agency, so as to produce good quality information service.

CHAPTER III

RIGHTS AND OBLIGATIONS OF PUBLIC INFORMATION APPLICANT AND USER AND THE RIGHTS AND OBLIGATIONS OF PUBLIC AGENCY

Part One

The Rights of Public Information Applicant

Article 4

- (1) Every person has the right to obtain Public Information pursuant to the provisions of this Law.
- (2) Every person has the right:
 - a. to see and to know Public Information;

- b. to attend public meetings that are open to the public in order to obtain Public Information;
 - c. to get a copy of Public Information by applying for it pursuant to this Law; and/or
 - d. to disseminate Public Information pursuant to law.
- (3) Every Public Information Applicant has the right to request for Public Information, and has to state the reason for such request.
- (4) Every Public Information Applicant has the right to file a suit in court if he/she is obstructed from obtaining, or fails to obtain Public Information pursuant to the provision of this Law.

Part Two

Obligations of the Public Information User

Article 5

- (1) The Public Information User is obliged to use Public Information in accordance with the law.
- (2) The Public Information User is obliged to state the source of his Public Information that is used for his/her own interest as well as for publication purposed, in accordance with the law.

Part Three

Rights of a Public Agency

Article 6

- (1) A Public Agency has right to refuse to provide exempted information pursuant to the law
- (2) A Public Agency has the right to refuse to provide Public Information if it is not in accordance wit the law.
- (3) The Public Information that exempted as referred to in paragraph (1) are:
- a. information that may jeopardize the state;

- b. information relating to the protection of the business from unhealthy business competition;
- c. information relating to individual privacy;
- d. information relating to official function; and or
- e. the required Public Information is not within its authority or not yet documented.

Part Four

Obligation of Public Agency

Article 7

- (1) Every Public Agency shall supply, provide and/or publish Public Information under its authority to the Public Information Applicant, except information that is exempted in accordance with the law.
- (2) Every Public Agency shall provide Public Information accurately, correctly and not deceptive.
- (3) To implement the obligation as referred to in paragraph (2), every Public Agency shall establish and develop an information and documentation system to manage the Public Information properly and efficiently, so that it is easily accessible.
- (4) Every Public Agency shall write down its reasoning for every policy that it takes to comply with the right of every person to get Public Information.
- (5) The reasoning as referred to in paragraph (4) contains among other things political, economic, social, cultural and/or state defense and security considerations.
- (6) In the framework of complying with the obligations in paragraphs (1) up to (4), every Public Agency may utilize the electronic and non-electronic media and/or facilities.

Article 8

The obligation of a Public Agency pertaining to the filling and documentation of Public Information shall be conducted in accordance with the law.

CHAPTER V

INFORMATION, MUST BE MADE AVAILABLE AND PUBLISHED

Part One

Information must be Made Available and Published periodically

Article 9

- (1) Every Public Agency shall publish Public Information periodically.
- (2) Public Information as referred to in paragraph (1) covers:
 - a. information pertaining to concerning Public Agency;
 - b. information on the activities and performance of the concerning Public Agency;
 - c. information on the financial report; and/or
 - d. other information regulated in the laws.
- (3) The obligation to publish and to provide Public Information as referred to in paragraph (2) is conducted at least every (6) six) months (semi-annually).
- (4) The obligation to disseminate Public Information as referred to in paragraph (1) is delivered in such a manner that is easily obtained by the people and in a simple language.
- (5) The methods as referred to in paragraph (4) are further determined by the Information Management and Documentation Office at the relevant Public Agency.

- (6) The provision on the obligation of Public Agency to provide and to submit Public Information periodically as referred to in paragraph (1), paragraph (2) and paragraph (3) is further regulated by Directive of the Information Commission

Part Two

Information must be Published Immediately

Article 10

- (1) Public Agency shall announce immediately any information that might jeopardize the life of the people and public order.
- (2) The obligation to disseminate Public Information as referred to in paragraph (1) is delivered in a manner that is easily obtained by the people and in a simple language.

Part Three

Information must be Made Available at Any Time

Article 11

- (1) A Public Agency shall provide Public Information at any time, covering:
- a. list of all of Public Information under its authority, excluding information that is exempted;
 - b. the decision made by the Public Agency and its reasoning;
 - c. all of the existing policies, along with their supporting documents;
 - d. the project working plan, including the estimated annual expense of the Public Agency
 - e. agreement made by the Public Agency and a third party;

- f. information and policies presented by the Public Officer in a meeting that is open to the public;
 - g. operation procedures of the Public Agency personnel relation to public services; and/or
 - h. reports on access to Public Information services as regulated in this law.
- (2) Public Information that has been state as open to the public based on the mechanism of objections and/or dispute settlement as referred to in Article 48, Article 49, and Article 50, are Public Information that are accessible for the Public Information User.
- (3) The provision on the method to implement the obligation of the Public Agency to provide Public Information that is accessible for the Public Information User as referred to in paragraph (1) and paragraph (2) is further regulated with the directives of the Information Commission.

Article 12

The Public Agency shall publish its information service annually, covering:

- a. the number of requests for information that it receives;
- b. the period that the Public Agency needs to fulfill every request for information;
- c. the number of information supplied and request, and/or
- d. the reason to refuse a request for information.

Article 13

- (1) To materialize fast, prompt and simple service, every Public Agency:
- a. appoints and Information Management and Documentation Officer; and

- b. sets up and develops an information services supply system that is fast, easy and reasonable, in accordance with the standard technical directives of public information prevailing nationwide.
- (2) The Information Management and Documentation Officer as referred to in paragraph (1) letter a is assisted by a functional officer.

Article 14

The Public Information that must be made available by State-owned Enterprises, Regional Government-owned Enterprises, and/or other state-owned corporations under this law are:

- a. the name and domicile, purposes and objectives as well as the type of business activities, period of establishment, and the capital, as stated in the Articles of Association;
- b. the full name of the shareholders, members of the board of directors, and members of the board commissioners of the corporation;
- c. the annual report, financial report, balance of profit and loss account, and the audited report on the social responsibilities of the corporation;
- d. the result of the evaluation by an external auditor, a credit rating institute, and other rating institutes;
- e. the system and allocation of the remuneration fund of the members of the board of commissioners/board of supervisors and board of directors;
- f. the mechanism of appointment of the board of directors and the board of commissioners/the board of supervisors;
- g. legal cases that under the Law are open as Public Information;
- h. the implementation directives for the proper management method of a company, based on the principles of transparency, accountability, independency and fairness;

- i. the announcement on the issue of stocks on credit;
- j. the substitution of an accountant who is the company's auditor;
- k. the Change of the company's fiscal year;
- l. government assignment activities and/or public service obligations or subsidy;
- m. the mechanism of goods and services procurement; and/or
- n. other information determined by the Law pertaining to a State-owned Enterprises and Regional Government-owned Enterprises.

Article 15

The Public Information that must be made available by a political party under this law are:

- a. the principles and the objectives;
- b. the general program and activities of the political party;
- c. the name, address and composition of the management and the alterations thereto;
- d. the management and use of fund that originates from the state budget and/or the regional budget;
- e. the decision-making mechanism of the party;
- f. the decision of the party; the result of the conference/congress/national meeting and other decisions that according to the articles of association and the party's by-laws are open to the public; and/or
- g. other information provided by the Law pertaining to political party;

Article 16

Public Information that must be made by a non-governmental organization under this law are:

- a. the principle and the objectives;
- b. the program and activities of the organization;
- c. the name, address, composition of the management, and the alterations thereto;
- d. the management and user of fund originating from the state budget and/or the regional budget, contributions from the people and/or from overseas sources;
- e. the decision-making mechanism of the organization;
- f. the decisions of the organization; and/or
- g. other information provided by the law.

CHAPTER V

EXEMPT INFORMATION

Article 17

Every Public Agency shall open the access to obtain Public Information for every Public Information Applicant, except:

- a. Public Information that if disclosed and supplied to the Public Information Applicant could obstruct the process of law enforcement, such as information that could:
 1. obstruct the investigation and inquiry process of a crime;
 2. disclose the identity of the informant, reporter, witness and/or the victim who knows a crime;

3. disclose the criminal intelligent data and the plans to prevent and to handle any form of transnational crime;
 4. jeopardize the life and the safety of the law enforcement officer and/or his/her family; and/or
 5. jeopardize the safety of the equipment, facilities and/or the infrastructure of the law enforcement officer.
- b. Public Information that, if disclosed and supplied to the Public Information Applicant, may disturb the protection of the right to intellectual property and the protection from unhealthy business competition;
- c. Information that, if disclosed and supplied to the Public Information Applicant, may jeopardize the defense and security of the state, i.e.
1. information about the strategy, intelligence, operation, tactics and technical information of the state defense and security system, covering the planning, implementation and closing or the valuation phase pertaining to internal and external threats;
 2. documents containing the strategy, intelligence, operation, technique and tactics pertaining to the state defense and security system, covering the planning, implementation and closing or evaluation phase;
 3. number, composition, disposition or dislocation of the strength and capacity to organize the state defense and security as well as their development plan;
 4. drawing and data of the situation and condition of the military base and/or military installation;
 5. data on the estimated military capacity and defense of other countries, limited to the actions and/or indication of such country that might jeopardize the sovereignty of the unity of Republic of Indonesia and/or data relating to military cooperation with other countries as agreed to in such agreement as confidential or highly confidential data.

6. state's encryption system; and/or
 7. the intelligence system of the state.
- d. Public Information that if disclosed and supplied to the Public Information Applicant could reveal the natural wealth of Indonesia;
- e. Public Information that, if disclosed and supplied to the Public Information Applicant, may be harmful to the national economic security;
1. the initial purchase and sales plan of the national or foreign currencies, shares and vital assets of the state;
 2. the initial plan to alter the exchange rate, interest rate, operating capital of the financial institution;
 3. the initial plan to alter the interest of the bank, government loan, alterations to the taxes, tariff, or revenue of the state/other regions;
 4. the initial sales or purchase plan of land or property;
 5. the initial foreign investment plan;
 6. the process and result of the supervision on banks, insurance or other financial institutions; and/or
 7. matters pertaining to the money printing process.
- f. Public Information that, if disclosed and supplied to the Public Information Applicant, may be harmful to diplomatic relations;
1. the position, bargaining power and strategy to be taken and that have been taken by the state in relation to international negotiations;
 2. inter-state diplomatic correspondence;
 3. the communication and encryption system used to operate international communication;

4. the protection and safeguarding of Indonesia's strategic infrastructure overseas.
- g. Information that, if disclosed, may reveal the contents of an authentic personal deed and the last will or testament of an individual;
- h. information that, if disclosed and supplied to the Public Information Applicant, may reveal an individual privacy, i.e.
 1. the history and condition of a member of the family;
 2. the history, condition and care, physical medical treatment, and physic of an individual;
 3. the financial condition, assets, income and bank account of an individual;
 4. evaluation results of the capability, intellectuality and recommendations on the capability of an individual; and/or
 5. personal notes of an individual pertaining to his/her formal education and non-formal education activities.
- i. the memorandum or letters between the public agencies or among the public agencies that, based on their nature are confidential, except the decision of the Information Commission or the court;
- j. information that may not be disclosed under the law.

Article 18

- (1) Excluded from the category of exempt information are the following information:
 - a. court decisions;
 - b. an internally or externally binding as well as non-binding prevailing provision, decision, regulation, circular or any other form of policy as well as the consideration of a law enforcement agency

- c. an order to stop an investigation or prosecution;
 - d. the annual expenditures plan of a law enforcement agency;
 - e. the annual financial report of a law enforcement;
 - f. the report on the money repayment scheme from corruptive acts; and/or
 - g. other information as referred to in Article 11 paragraph (2)
- (2) Excluded from the information that is exempted as referred to in Article 17 letter g and letter h among other things are if:
- a. the party whose privacy is disclosed gives his/her approval in writing; and/or
 - b. the disclosure pertains to the position of an individual in his/her public positions.
- (3) In the event of an examination of a criminal case at the court, the Chief of the Republic of Indonesia Police, the Attorney General, the Head of the Supreme Court, the Chairperson of the Corruption Eradication Commission, and/or the Head of other state law enforcement agencies that are authorized by the Law, may disclose information that are exempted as referred to in Article 17 letter a, letter b, letter c, letter d, letter e, letter f, letter i, and letter j.
- (4) The exempt information as referred to in paragraph (3) is disclosed by asking the President for permission.
- (5) The permission as referred to in paragraph (3) and paragraph (4) to examine at the court a civil suit in relevance to the state finance or assets, is requested to the President by the Attorney General in his capacity as the state lawyer.
- (6) The written permission as referred to in paragraph (3), paragraph (4), and paragraph (5) is granted by the President to the Chief of the Republic of Indonesia Police, the Attorney General, the Head of the Corruption Eradication Commission, the Head of other State Law Enforcement Agencies, or the Chairperson of the Supreme Court.

- (7) Taking into consideration the interest of the state defense and security and the interest of the public, the President may refuse/deny a request for an exempted information as referred to in paragraph (3), paragraph (4) and paragraph (5).

Article 19

The information Management and Documentation Officer at every Public Agency shall examine the consequences as referred to in Article 17 accurately and conscientiously prior to stating that a specific Public Information is exempted and cannot be accessed by the public.

Article 20

- (1) the exceptions as referred to in Article 17 letter a, letter b, letter c, letter d, letter e, and letter f shall not be permanent.
- (2) Regulation on the period/duration of the exemption is further regulated by a Government Regulation.

CHAPTER VI

MECHANISM TO OBTAIN INFORMATION

Article 21

The mechanism to obtain Public Information is based on the principles of fast, prompt, and at low-cost.

Article 22

- (1) Every Public Information Applicant may submit a request to obtain Public Information to the relevant Public Agency in writing or otherwise.
- (2) The Public Agency shall record the name and address of the Public Information Applicant, the subject and format of the information as well as the method to deliver the information that is required by the Public Information Applicant.
- (3) The Public Agency concerned shall record in written the request for Public Information that is submitted other than in writing.
- (4) The relevant Public Agency shall provide a receipt in the form of registration number for the request for Public Information as referred to in paragraph (1) and paragraph (3) upon the receipt of the request.
- (5) In the event that the request is submitted personally or by electronic letter, the registration number is given upon receipt of the request.
- (6) In the event that the request is submitted by letter, the registration number may be sent along with the information.
- (7) No later than 10 (ten) working days from the receipt of the request, the Public Agency concerned shall provide a written notification to the applicant that contains:
 - a. as to whether the required information are under its authority or not;
 - b. the entitled Public Agency where the required information can be obtained, in the case that the required information are not under its authority and the Public Agency knows which Public Agency held such information
 - c. the acceptance or refusal of a request for the reason as state and referred to in Article 17;
 - d. in the event that the request is accepted entirely or partly, the Public Agency shall state the subject of the information can be obtained;

- e. in the event that a document contains exempt information as referred to in Article 17, such exempt information may be blackened with the reason and the subject thereof;
 - f. means to submit and the format of the information to be supplied; and/or
 - g. the cost and the payment method to obtain the required information.
- (8) The Public Agency concerned may extend the period to dispatch the notification as referred to in paragraph (7) to no later than 7 (seven) working days thereafter, with the reason therefore in writing.
- (9) Subsequent provisions on the method and procedure to request information to the Public Agency are regulated by the Information Commission.

CHAPTER VII

INFORMATION COMMISSION

Part One

Function

Article 23

The Information Commission is an independent body that functions to implement this Law and its implementing regulations, to provide the standard technical directives of public information services and to settle public information disputes by mediation and/or non-litigation adjudication

Part Two

Location

Article 24

- (1) The Information Commission consists of the Central Information Commission, the Provincial Information Commission, and if required, the District/Municipal Information Commission.
- (2) The national Information Commission is domiciled in the Capital City of the country.
- (3) The provincial Information Commission is domiciled in the capital of the province and the district/municipal Information Commission is domiciled in the capital of the district/municipality.

Part Three

Composition

Article 25

- (1) The Central Information Commission has 7 (seven) Commissioners who represent elements of the government and elements of the society.
- (2) The provincial Information Commission and /or the district/municipal Information Commission has 5 (five) Commissioners who represent elements of the government and elements of the society.
- (3) The Information Commission is directed by a chair commissioner cum member and is assisted by a vice chair commissioner cum member.
- (4) The chair commissioner and the vice chair commissioner are elected from and by the members of the Information Commission.



- (5) The election as referred to in paragraph (6) is conducted by deliberation of all commissioners of the Information Commission and if no consensus is reached, voting is conducted

Part Four

Duties

Article 26

- (1) The Information Commission has the following duties:
- a. to receive, check and decide upon a request for the settlement of a public information dispute, be it through mediation and/or non-litigation adjudication that is filed by every Public Information Applicant based on the reason as referred to in this Law.
 - b. to determine general policy of the Public Information service; and
 - c. to determine the implementing directives and the technical directives.
- (2) The Central Information Commission has the following duties:
- a. to determine the implementing procedures of the settlement of a dispute by mediation and/or non-litigation adjudication;
 - b. to receive, check, and decide on a Public Information dispute in the region, as long as the provincial Information Commission and/or the district/municipal Information commission have/has not been formed; and
 - c. to provide a report on the implementation of its duties under this Law to the President and to the Parliament of the Republic of Indonesia on an annual basis or at any time, if required.

- (3) The Provincial Information Commission and/or the District/Municipal Information Commission has the duties to receive, examine, and to rule over a public information dispute in the region under its jurisdiction by mediation and/or non-litigation adjudication.

Part Five

Authority

Article 27

- (1) To carry out its duties the Information Commission has the following authorities:
 - a. to summon and/or to arrange a meeting for the disputing parties;
 - b. to ask for the records or relevant materials that are in the possession of the relevant Public Agency to take a decision in the attempt to settle a public information dispute.
 - c. to ask for information or to ask the attendance of a Public Agency officer or a relevant party as witness in the settlement of a public information dispute.
 - d. To take the oath of the witnesses whose information is heard in the non-litigation adjudication of the settlement of a public information dispute; and
 - e. To develop a code of ethics that is announced to the public so that the public can evaluate the performance of the Information Commission
- (2) The authority of the Central Information Commission covers the authority to settle a public information dispute pertaining to the Central Public Agency and the Provincial Public Agency and/or the District/Municipal public Agency as long as the Information Commission in the province or such district/municipal Information Commission has not yet been formed.
- (3) The authority of the Provincial Information Commission covers the authority to settle a dispute pertaining to the Public Agency of the province concerned.

- (4) The authority of the District/Municipal Information Commission covers the authority to settle a dispute pertaining to the Public Agency of the district/municipality concerned.

Part Six

Responsibilities

Article 28

- (1) The Central Information Commission is responsible to the President and submits a report on the implementation of its function, duties and authorities to the Parliament of the Republic of Indonesia.
- (2) The Provincial Information Commission is responsible to the Governor and reports the implementation of its function, duties and authorities to the Local Parliament of the province concerned.
- (3) The district/municipal Information Commission is responsible to the Mayor and reports the implementation of its function, duties and authorities to the Local Parliament of the district/municipal concerned.
- (4) The complete report of the Information Committee as referred to in paragraph (1), paragraph (2) and paragraph (3) is open to the public.

Part Seven

The Secretarial and Management of the Information Commission

Article 29

- (1) The administrative support, finance and management of the Information Commission are conducted by the secretarial of the Commission.
- (2) The Secretarial of the Information Commission is operated by the government.

- (3) The Secretarial of the Central Information Commission is directed by a secretary who is appointed by the Minister whose duties and authorities are in the field of communication and informatics, based on the proposal of the Information Commission.
- (4) The Secretarial of the provincial Information Commission is operated by an officer whose duties and authorities are in the field of communication and informatics at the provincial level concerned.
- (5) The Secretarial of the district/municipality Information Commission is operated by an officer whose duties and authorities are in the field of communication and informatics at the district/municipality level concerned.
- (6) The budget of the Central Information Commission is charged to the state budget, the budget of the provincial Information Commission and/or the district/municipality Information Commission is charged to the regional budget of the province and/or to the regional budget of the district/municipality concerned.

Part Eight

Appointment and Dismissal

Article 30

- (1) The requirements for the appointment of a member of the Information Commission are as follows:
 - a. an Indonesian citizen;
 - b. possess integrity and no tamish;
 - c. never been sentenced for a crime that is threatened with sentence in prison for 5 (five) years of longer;
 - d. posses knowledge and understanding in the field of transparency of transparency of Public Information as part of the human right and public policy;

- e. experienced in the activities of Public Agency;
 - f. willing to resign from his position as a member of a Public Agency if appointed as a member of the Information Commission;
 - g. willing to work full time;
 - h. at least 35 (thirty five) years old; and
 - i. is in good health, psychologically and physically
- (2) The recruitment of a potential member of the Information Commission is conducted transparently, conscientiously and objectively by the Government.
- (3) The list of potential members of the Information Commission shall be published to the public.
- (4) Every individual has the right to express his/her views/opinion and evaluation of a potential member of the information Commission as referred to in paragraph (3), along with the reasons.

Article 31

- (1) The President of the Republic of Indonesia nominate 21 (twenty one) potential candidate Commissioners of the Central Information Commission to the Parliament of the Republic of Indonesia as a result of the recruitment as referred to in Article 30 paragraph (2)
- (2) Parliament of the Republic of Indonesia elects the Commissioners of the Central Information Commission by a due diligence test.
- (3) The Commissioners of the Central Information Commission who have been elected by the Parliament of the Republic of Indonesia are subsequently appointed by the president.

Article 32

- (1) A minimum of 10 (ten) and maximum 15 (fifteen) potential candidates of the Provincial Information Commission and/or the District/Municipal Information Commission whose recruitment is as referred to in Article 30 paragraph (2) are proposed to the provincial Parliament and/or the district/municipal Parliament by the Governor and/or the Regent/Mayor.
- (2) The provincial and/or district/municipal Parliament elects the members of the Provincial Information Commission and/or the district/municipal Information Commission by a due diligence test.
- (3) The members of the provincial Information Commission and/or the district/municipal Information Commission who have been elected by the provincial parliament and/or the district/municipal parliament are subsequently appointed by the governor and/or by the regent/mayor.

Article 33

A member of the Information Commission is appointed for the term of office of 4 (four) years and is eligible to be reappointed for the next period

Article 34

- (1) A member of the Information Commission is dismissed by the decision of the Information Commission in accordance with his/her official position, and is proposed to the President for the Central Information Commission, to the Governor for the Provincial Information Commission, and to the Regent/Mayor for the district/municipal Information Commission to decide.
- (2) A member of the Information Commission resigns or is dismissed for the reasons of:

- a. death;
 - b. expiry of the term of office;
 - c. resignation;
 - d. sentenced by a court ruling that is final and binding, with a threat of criminal sanction for 5 (five) years in prison at the minimum;
 - e. mentally and physically ill and/or other reasons that have led to the person concerned to be unable to carry out his/her duties for 1 (one) year consecutively; or
 - f. committing a disgraceful act and/or violating the code of ethics, the decision thereof being provided by the Information Commission.
- (3) The dismissal as referred to in paragraph (1) is provided by the decision of the President for the Central Information Commission and the decision of the governor for the provincial and/or district/municipal Information Commission.
- (4) A member of the Information commission is recalled by the President, after consulting it with the chairperson of the Parliament of the Republic of Indonesia for the Central Information Commission, by the governor after consulting it with the chairperson of the provincial Assembly for the provincial Information Commission, and by the regent/mayor after consulting it with the chairperson of the district/municipal Assemble for the district/municipal Information Commission.
- (5) The substitute of the recalled member of the Information Commission is adopted from the next in line based on the result of the due diligence test that has been conducted as the basis of the appointment of the Information Commission member in the relevant period.

CHAPTER VIII
OBJECTION AND SETTLEMENT OF DISPUTE
BY THE INFORMATION COMMISSION

Part One

Objection

Article 35

- (1) Every Public Information Applicant may file his/her objection(s) in writing to the supervisor of the Information Management and Documentation Office, based on the following reasons:
- a. a request for information is rejected for the reason of the exemption as referred to in Article 17;
 - b. the information that must be made available periodically as referred to in Article 9 is not provided;
 - c. the request for information gets no response.
 - d. the response to the request for information is not as requested;
 - e. the request for information is not fulfilled;
 - f. unreasonable high fee is charged; and/or
 - g. the information is supplied after the lapse of time that is regulated in this Law.
- (2) The reasons as referred to in paragraph (1) letter b up to letter g can be settled amicable by the parties hereto.

Article 36

- (1) An objection is filed by a public Information Applicant within no later than 30 (thirty) working days after finding out the reason as referred to in Article 35 paragraph (1).
- (2) The supervisor of the officer as referred to in Article 35 paragraph (1) responds to the objection that is filed by the Public Information Applicant within no later than 30 (thirty) working days from the receipt of the written objection.
- (3) The written reason is sent along with the response if the supervisor of the officer a referred to in Article 35 paragraph (1) confirms the award that is provided by his subordinate.

Part Two

Dispute Settlement by the Information Commission

Article 37

- (1) An attempt to settle a public information dispute is made to the Central Information Commission and/or the provincial Information Commission and/or the district/municipal Information Commission in accordance with their authority if the response of the supervisor of the Information Management and Documentation Officer in the process of the objection is not satisfactory to the Public Information Applicant.
- (2) An attempt to settle a public information dispute is made within no later than 14 (fourteen) working days from the receipt of the written response from the supervisor of the officer as referred to in Article 36 paragraph (2).

Article 38

- (1) The Central Information Commission and the Provincial Information Commission and/or the District/Municipal Information Commission shall begin to proceed the settlement of the public information dispute by Mediation and/or non-litigation Adjudication, no later than

14 (fourteen) working days from the receipt of the request to settle the public information dispute.

- (2) The process of the settlement of a dispute as referred to in paragraph (1) may be completed no later than within 100 (a hundred) working days.

Article 39

The decision of the Information Commission that originates from a consensus by a mediation process is final and binding.

CHAPTER IX

THE COMMISSION'S LAW OF PROCEDURE

Part One

Mediation

Article 40

- (1) The parties in dispute hereto are free and voluntary to choose mediation process to settle such dispute.
- (2) The Settlement of a dispute by mediation may only be conducted for the subject matter contained in Article 35 paragraph (1) letter b, letter c, letter d, letter e, letter f and letter g.
- (3) The agreement between the parties in the mediation process is drawn up in the form of a decision of the Information Commission's Mediation.

Article 41

In the Mediation process, the Commissioner of the Information Commission act as the mediator.

Part Two

Adjudication

Article 42

The settlement of a Public Information Dispute by non-litigation adjudication by the Information Commission may only be conducted if the mediation attempt is declared unsuccessful (failed) in written by either or both of the disputing parties, or either or both of the disputing parties withdraw his/herself from process

Article 43

- (1) The Information Commission session that that examines and makes decision on a suit consists of a minimum of 3 (three) Commissioners or more, and the number shall be an odd number.
- (2) The information Commission session is open to the public.
- (3) In the event of the examination of the documents that are categorized under the exemption as referred to in Article 17, the session on the examination is a closed session.
- (4) The Commissioners shall keep the documents as referred to in paragraph (3) confidential

Part Three

Examination

Article 44

- (1) In the event that the Information Commission accepts a request to settle a Public Information Dispute the Information Commission submits a copy of the request to the respondent.
- (2) The respondent as referred to in paragraph (1) is the Public Agency director or relevant officer who is appointed, whose statement/information is heard in the examination process

- (3) In the event that the respondent is as referred to in paragraph (2), the Information Commission may decide to hear such information verbally or in writing.
- (4) The Public Information Applicant and the respondent may authorized his deputy who is specifically authorized for the purpose.

Article 45

- (1) A Public Agency shall prove matters that support its view if it states that it cannot provide information for the reason as referred to in Article 17 and Article 5 paragraph (1) letter a.
- (2) A Public Agency shall give the reason that supports its attitude if the Public Information Applicant submits a request to settle the Public Information Dispute as regulated in Article 35 paragraph (1) letter b up to letter g

Part Five

Information Commission's Decision

Article 46

- (1) The decision of the Information Commission on granting or denying access to all or part of the required information contains any of the following instructions:
 - a. to rescind the decision of the Public Agency supervisor and to decide to grant part or all of the information that is required by the Public Information Applicant in accordance with the decision of the Information Commission; or
 - b. to affirm the decision of the supervisor of the Information and Documentation Management Office not to provide the required information either partly or wholly as referred to in Article 17.
- (2) The decision of the Information Commission on the main objections as referred to in Article 35 paragraph (1) letter b up to letter g, contains any of the following instructions:

- a. to instruct the Information Management and Documentation Officer to carry out his/her obligations as provided in this Law.
 - b. to instruct the Public Agency to fulfill its obligation within the specified period to provide the information as regulated in this Law; or
 - c. to affirm the consideration of the supervisor of the Public Agency or to determine the cost for tracking down and/or duplicating the information.
- (3) The decision of the Information Commission is pronounced in a session that is open to the public, except a decision relating to the exempt information.
 - (4) The Information Commission shall give a copy of its decision to the disputing parties.
 - (5) If a member of the Commission has a dissenting opinion, the opinion of such Commissioners is attached to the decision and becomes an inseparable part of such decision.

CHAPTER X

SUIT TO COURT AND CESSATION

Part One

Suit to Court

Article 47

- (1) A suit is filed to the Administrative Court if the accused part is a state Public Agency.
- (2) A suit is filed through the District Court if the accused party is a Public Agency other than the state Public Agency as referred to in paragraph (1).

Article 48

- (1) The filing of a suit as referred to in Article 47 paragraph (1) and paragraph (2) may only be conducted if either of or both of the disputing parties state in writing that it/they does/do not satisfy with the adjudication decision of the Information Commission within maximum 14 (fourteen) working days from the receipt of such decision.
- (2) As long as it concerns the exempt information, the sessions at the Information Commission and at the court are closed sessions.

Article 49

- (1) The decision of the Administration Court or the District Court in the settlement of a public information dispute on granting or denying access to either all or part of a required information contains any of the following instructions:
 - a. to rescind the decision of the Information Commission and/or to instruct the Public Agency:
 1. to grant part or all of the information that is required by the Public Information Applicant; or
 2. to refuse to give part or all of the information that is required by the Public Information Applicant.
 - b. to affirm the decision of the Information Commission and/or to instruct the Public Agency:
 1. to give part or all of the information that is required by the Public Information Applicant; or
 2. to refuse to give part or all of the information that is required by the Public Information Agency.

- (2) The decision of the Administrative Court or the District Court in the settlement of a Public Information Dispute regarding the main objection as referred to in Article 35 paragraph (1) letter b up to letter g contains any the following instructions:
- a. to instruct the Information Management and Document Officer to carry out his/her obligations as provided in this Law and/or to instruct to fulfill the period to deliver information as regulated in this Law
 - b. to refuse the request to the Public Information Applicant; or
 - c. to determine the cost of duplicating the information.
- (3) The Administrative Court or the District Court gives a copy of its decision to the disputing parties.

Part Two

Cessation

Article 50

The party who does not satisfy with the decision of the Administrative Court or the District Court may file for cessation to the Supreme Court no later than 14 (fourteen) days from the receipt of the decision of the Administrative Court or the District Court.

CHAPTER XI

CRIMINAL SANCTION

Article 51

Every person who deliberately user Public Information against the law is sentenced to prison for a maximum of 1 (one) year and/or is fined for a maximum of Rp. 5,000,000.00 (five million rupiah)

Article 52

A Public Agency that deliberately ignores to supply, give and/or publish Public Information that must be made available periodically, Public Information that must be published immediately, Public Information that must be available at any time, and/or Public Information to be supplied on the basis of a request pursuant to this Law that results in a loss to other is sentenced to prison for a maximum of 1 (one) year and/or is fined for a maximum of Rp. 5,000,000.00 (five million rupiah).

Article 53

Every person who deliberately and against the law demolishes, destroys and/or loses Public Information documents of any form of media that is protected by the state and/or is related to the interest of the public is sentenced with imprisonment of a maximum of 2 (two) years and/or is fined with a maximum of Rp. 10,000,000.00 (ten million rupiah)

Article 54

- (1) Every person who deliberately and unrightfully accesses and/or acquires and/or supplies information that is exempted as regulated in Article 17 letter a, letter b, letter d, letter f, letter g, letter h, letter I, and letter j, is sentenced to a prison with a maximum of 2 (two) years and is fined with a maximum of Rp. 10,000,000.00 (ten million rupiah)
- (2) Every person who deliberately and unrightfully accesses and/or acquires and/or supplies information that is classified as regulated in Article 17 letter c and letter e, is sentenced to a prison with a maximum of 3 (three) years and is fined with a maximum of Rp. 20,000,000.00 (twenty million rupiah)

Article 55

Every person who deliberately makes a Public Information that is incorrect or misleading and results in a loss to others is sentenced to prison with a maximum of 1 (one) year and/or is fined with a maximum of Rp. 5,000,000.00 (five million rupiah)

Article 56

For every violation that is sanctioned with criminal sanction in this Law and is also threatened with criminal sanction in other specific laws, the sanction that prevails is the criminal sanction of the more specific law

Articles 57

The criminal suit under this law constitutes a legal proceeding and is filed through the crime jurisdiction.

CHAPTER XII**TRANSITIONAL REGULATIONS****Article 58**

The Central Information Commission shall have been formed no later than 1 (one) year from the enactment of this Law.

Article 59

The Provincial Information Commission shall have been formed no later than 2 (two) years from the enactment of this Law.

Article 60

At the time this law takes into effect the Public Agency shall carry out its obligations under the law.

Article 61

Subsequent regulations on the method and procedures of the compensation payment by a state Public Agency are regulated by a Government Regulation.

Article 62

The Government Regulation shall have been provided effective from the enforcement of this law.

CHAPTER XIII**CLOSING REGULATIONS****Article 63**

At the time this law takes into effect, all regulations of the law pertaining to obtaining any existing information continue to prevail to the extent that they are not contrary and have not been replaced under this law.

Article 64

- (1) This law shall take into effect 2 (two) years from the date of its enactment.
- (2) The composition and provision of the Government Regulation, technical directives socializing, facilities and infrastructure, as well as other matters relating to the preparation of the implementation of this law, shall have been completed no later than 2 (two) years from the enactment of this law.

In order that everyone is informed, to instruct the enactment of this law by its placement in the State Gazette of the Republic of Indonesia.

Ratified in :

Jakarta On :

By

THE PRESIDENT OF THE REPUBLIC

OF INDONESIA,

SUSILO BAMBANG YUDHOYONO

APPENDIX B**OFFICIAL INFORMATION ACT, B.E. 2540**

BHUMIBOL ADULYADEJ, REX.

Given on the 2nd Day of September B.E. 2540;

Being the 52nd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on official information; Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1. This Act is called the "Official Information Act, B.E. 2540 (1997)."

Section 2. This Act shall come into force after ninety days from the date of its publication in the Government Gazette.

Section 3. All other laws, by-laws, Rules and regulations, insofar as they deal with matters provided herein or are contrary hereto or inconsistent herewith, shall be replaced by this Act.

Section 4. In this Act:

"information" means a material which communicates matters, facts, data or anything, whether such communication is made by the nature of such material itself or through any means whatsoever and whether it is arranged in the form of a document, file, report, book, diagramme, map, drawing, photograph, film, visual or sound recording, or recording by a computer or any other method which can be displayed;

"official information" means an information in possession or control of a State agency, whether it is the information relating to the operation of the State or the information relating to a private

individual;

"State agency" means a central administration, provincial administration, local administration, State enterprise, Government agency attached to the National Assembly, Court only in respect of the affairs unassociated with the trial and adjudication of cases, professional supervisory organisation, independent agency of the State and such other agency as prescribed in the Ministerial Regulation;

"State official" means a person performing official duty for a State agency;

"personal information" means an information relating to all the personal particulars of a person, such as education, financial status, health record, criminal record or employment record, which contain the name of such person or contain a numeric reference, code or such other indications identifying that person as fingerprint, tape or diskette in which a person's sound is recorded, or photograph, and shall also include information relating to personal particulars of the deceased;

"Board" means the Official Information Board;

"alien" means a natural person who is not of Thai nationality and does not have a residence in Thailand, and the following juristic persons:

- (1) a company or partnership more than one-half of the capital of which belongs to aliens; provided that a certificate of share to bearer shall be deemed to be held by an alien;
- (2) an association more than one-half of members of which are aliens;
- (3) an association or foundation the objects of which are for the benefit of aliens;
- (4) a juristic person under (1), (2) or (3) or any other juristic person more than one-half of managers or directors of which are aliens.

If the juristic person under paragraph one becomes a manager, director, member or owner of the capital of another juristic person, such manager, director, member or owner of the capital shall be deemed an alien.

Section 5. The Prime Minister shall have charge and control of the execution of this Act and shall have the power to issue Ministerial Regulations for the execution of this Act. Such Ministerial Regulation shall come into force upon its publication in the Government Gazette.

Section 6. There shall be established the Office of the Official Information Board in the Office of the Permanent Secretary for the Office of the Prime Minister which shall have the duty to perform technical and administrative works for the Board and the Information Disclosure Tribunals, co-ordinate with State agencies and give advice to private individuals with regard to the execution of this Act.

Penalties

Section 40. Any person who fails to comply with an order of the Board issued under section 32 shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand Baht or to both.

Section 41. Any person who violates or fails to comply with the restriction or condition imposed by the State official under section 20 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both.

Transitory Provisions

Section 42. The provisions of section 7, section 8 and section 9 shall not apply to official information having been in existence before the date this Act comes into force.

A State agency shall publish the information under paragraph one or make it available for public inspection, as the case may be, in accordance with the rules and procedure prescribed by the Board.

Section 43. The Rule on the National Security Protection, B.E. 2517 (1974), insofar as it deals with the official information, shall continue to be in force to such an extent as not contrary to or

inconsistent with this Act, unless otherwise provided in the Rule prescribed by the Council of Ministers under section 16.

CHAPTER I

Information Disclosure

Section 7. A State agency shall at least publish the following official information in the Government Gazette:

- (1) the structure and organisation of its operation;
- (2) the summary of important powers and duties and operational methods;
- (3) a contacting address for the purpose of contacting the State agency in order to request and obtain information or advice;
- (4) by- laws, resolutions of the Council of Ministers, regulations, orders, circulars, Rules, work pattern, policies or interpretations only insofar as they are made or issued to have the same force as by-laws and intended to be of general application to private individuals concerned;
- (5) such other information as determined by the Board.

If any information which has already been published for dissemination in sufficient number is published in the Government Gazette by making reference to such prior published material, it shall be deemed to comply with the provisions of paragraph one.

A State agency shall, for dissemination purpose, compile and make available the information under paragraph one for sale, disposal or distribution at its office as it thinks fit.

Section 8. If the information which must be published under section 7 (4) has not yet been published in the Government Gazette, may not be relied on in a manner unfavourable to any person unless such person has had actual knowledge thereof for a reasonable period of time.

Section 9. Subject to section 14 and section 15, a State agency shall make available at least the

following official information for public inspection in accordance with the rules and procedure prescribed by the Board:

- (1) a result of consideration or a decision which has a direct effect on a private individual including a dissenting opinion and an order relating thereto;
- (2) a policy or an interpretation which does not fall within the scope of the requirement of publication in the Government Gazette under section 7 (4);
- (3) a work-plan, project and annual expenditure estimate of the year of its preparation;
- (4) a manual or order relating to work procedure of State officials which affects the rights and duties of private individuals;
- (5) the published material to which a reference is made under section 7 paragraph two;
- (6) a concession contract, agreement of a monopolistic nature or joint venture agreement with a private individual for the provision of public services;
- (7) a resolution of the Council of Ministers or of such Board, Tribunal, Commission or Committee as established by law or by a resolution of the Council of Ministers; provided that the titles of the technical reports, fact reports or information relied on in such consideration shall also be specified;
- (8) such other information as determined by the Board.

If any part of the information made available for public inspection under paragraph one is prohibited from disclosure under section 14 or section 15, it shall be deleted, omitted or effected in such other manners whatsoever so as not to disclose such part of the information.

A person, whether interested in the matter concerned or not, has the right to inspect or obtain a copy or a certified copy of the information under paragraph one. In an appropriate case, a State agency may, with the approval of the Board, lay down the rules on the collection of fees therefor. For this purpose, regard shall also be had to the making of concession given to persons with low incomes, unless otherwise provided by specific law.

The extent to which an alien may enjoy the right under this section shall be provided by the Ministerial Regulation.

Section 10. The provisions of section 7 and section 9 do not affect official information which is required by specific law to be disseminated or disclosed by other means.

Section 11. If any person making a request for any official information other than the official information already published in the Government Gazette or already made available for public inspection or already made available for public studies under section 26 and such request makes a reasonably apprehensible mention of the intended information, the responsible State agency shall provide it to such person within a reasonable period of time, unless the request is made for an excessive amount or frequently without reasonable cause.

If any official information is in a condition which can be easily damaged, a State agency may request for an extension of the period for its provision or may provide copies thereof in any such condition as to avoid damage thereto.

The official information provided by the State agency under paragraph one must be the information already subsisting in the condition ready for distribution without requiring new preparation, analysis, classification, compilation or creation, unless it is the case of transformation into a document from the information recorded in the visual or sound recording system, computer system or any other system as determined by the Board. If the State agency is of the opinion that the request is not for the benefit of trade and is necessary for the protection of the rights and liberties of such person or is beneficial to the public, the State agency may provide such information.

The provisions of paragraph three shall not prevent the State agency from creating new official information available to the person making the request if it is consistent with the usual powers and duties of such State agency.

The provisions of section 9 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis* to the provision of the information under this section.

Section 12. In the case where a person makes a request for official information under section 11, the State agency receiving the request shall, notwithstanding that the requested information is in the control of the central office or a branch office of such agency or in control of other State agency, give advice for the purpose of submitting the request to the State agency exercising the control of such information without delay.

If the State agency receiving the request is of the opinion that information for which the request is made is the information prepared by another State agency and prohibited from disclosure in accordance with Rule issued under section 16, it shall remit such request to the State agency preparing such information for further considering and making an order.

Section 13. Any person, who considers that a State agency fails to publish the information under section 7, fails to make the information available for public inspection under section 9, fails to provide him with the information under section 11, violates or fails to comply with this Act, or delays in performing its duties, or considers that he does not receive convenience without reasonable cause, is entitled to lodge a complaint with the Board, except where it is the case concerning the issuance of an order prohibiting the disclosure of information under section 15 or an order dismissing the objection under section 17 or an order refusing the correction, alteration or deletion of the personal information under section 25.

In the case where the complaint is lodged with the Board under paragraph one, the Board shall complete the consideration thereof within thirty days as from the date of the receipt of the complaint. In case of necessity, such period may be extended; provided that, the reason therefor is specified and the total period shall not exceed sixty days.

CHAPTER II

Information Not Subject to Disclosure

Section 14. Official information which may jeopardise the Royal Institution shall not be disclosed.

Section 15. A State agency or State official may issue an order prohibiting the disclosure of official information falling under any of the following descriptions, having regard to the performance of duties of the State agency under the law, public interests and the interests of the private individuals concerned:

- (1) the disclosure thereof will jeopardise the national security, international relations, or national economic or financial security;
- (2) the disclosure thereof will result in the decline in the efficiency of law enforcement or failure to achieve its objectives, whether or not it is related to litigation, protection, suppression, verification, inspection, or knowledge of the source of the information;
- (3) an opinion or advice given within the State agency with regard to the performance of any act, not including a technical report, fact report or information relied on for giving opinion or recommendation internally;
- (4) the disclosure thereof will endanger the life or safety of any person;
- (5) a medical report or personal information the disclosure of which will unreasonably encroach upon the right of privacy;
- (6) an official information protected by law against disclosure or an information given by a person and intended to be kept undisclosed;
- (7) other cases as prescribed in the Royal Decree.

An order prohibiting the disclosure of official information may be issued subject to any condition whatsoever, but there shall also be stated therein the type of information and the reasons for non-disclosure. It shall be deemed that the issuance of an order disclosing official information is the exclusive discretion of State officials in consecutive levels of command; provided that, a person who makes a request for the information may appeal to the Information Disclosure Tribunal as provided in this Act.

Section 16. For the sake of practical clarity as to whether or not and on what conditions official information may be disclosed to any person and for the sake of expediency in having measures preventing its leakage, a State agency shall determine measures for the protection of such information in accordance with the Rule on Official Secrets Protection issued by the Council of Ministers.

Section 17. In the case where a State official is of the opinion that the disclosure of any official information may affect the interests of a person, the State official shall notify such person to present an objection within the specified period; provided that, reasonable time shall be given for this purpose which shall not be less than fifteen days as from the date of the receipt of the notification.

The person having been notified under paragraph one or a person knowing that the disclosure of any official information may affect his interests has the right to present an objection in writing against such disclosure to the responsible State official.

In the case where there is an objection, the responsible State official shall, without delay, consider the objection and notify the result thereof to the person presenting it. In the case where an order dismissing the objection is made, State officials shall not disclose such information until the period for an appeal under section 18 has elapsed or until the Information Disclosure Tribunal has made a decision permitting the disclosure of such information, as the case may be.

Section 18. In the case where a State official issues an order prohibiting the disclosure of any information under section 14 or section 15 or dismissing the objection of the interested person under section 17, such person may appeal through the Board to the Information Disclosure Tribunal within fifteen days as from the date of the receipt of such order.

Section 19. The consideration, whether by the Board, the Information Disclosure Tribunal or the Court, of the information the disclosure of which is prohibited by an order shall be conducted under the procedure without having such information disclosed to any other person not relevant

to the procedure of consideration, and in the case of necessity, the consideration may be conducted in the absence of any party.

Section 20. In disclosing any information the disclosure of which may constitute liability under any law, the State official shall be deemed to be exempt from such liability if he acts in good faith in the following circumstances:

(1) in respect of the information under section 15, where the State official duly proceeds in accordance with the Rule issued under section 16;

(2) in respect of the information under section 15, where the State official of the level specified in the Ministerial Regulation issues an order for a general disclosure or a specific disclosure to any person for securing a benefit of greater importance which relates to public interest, life, body, health or other benefit of a person and such order is reasonable; for this purpose, a restriction or condition may be imposed on the use of such information as appropriate.

The disclosure of the information under paragraph one does not constitute a ground for exempting the State agency from liability under the law, if any in such case.

CHAPTER III

Personal Information

Section 21. For the purpose of this Chapter, "person" means a natural person who is of Thai nationality and a natural person who is not of Thai nationality but has a residence in Thailand.

Section 22. The National Intelligence Agency, the Office of the National Security Council and other State agencies specified in the Ministerial Regulation may, with the approval of the Board, issue the Rules

prescribing rules, procedure and conditions for the inapplicability of the provisions of paragraph one (3) of section 23 to personal information in the control of such agencies.

Such other State agencies which may be specified in the Ministerial Regulation under paragraph one must be State agencies the operation of which will seriously be obstructed by the disclosure of personal information under section 23 paragraph one (3).

Section 23. A State agency shall take the following actions with regard to the provision of a personal information system:

(1) providing for a personal information system only insofar as it is relevant to and necessary for the achievement of the objectives of the operation of the State agency, and terminating the provision thereof whenever it becomes unnecessary;

(2) making efforts to collect information directly from the person who is the subject thereof, especially in the case where such person's interests will be directly affected;

(3) causing the following information to be published in the Government Gazette and examining and correcting the same regularly:

(a) the type of persons in respect of which information has been held;

(b) the type of the personal information system;

(c) the ordinary nature of the use of the information;

(d) the procedure for the inspection of the information of the person who is the subject thereof;

(e) the procedure for the making of a request for the correction and alteration of the information;

(f) the source of the information;

(4) examining and correcting personal information under its responsibility;

(5) providing an appropriate security system for the personal information system in order to

prevent improper use or any use to the prejudice of the person who is the subject of the information.

In the case where the information has directly been collected from the person who is the subject thereof, a State agency shall, in advance or simultaneously with the request therefor, notify such person of the purpose for the use of the information, the ordinary nature of its use and whether such case of making the request is one which the information may be given voluntarily or one which it must be given compulsorily under the law.

In the case where the personal information is dispatched to any place which, in consequence thereof, may become known to general members of the public, a State agency must notify the person who is the subject thereof, unless it is carried out in conformity with the ordinary nature of the use of the information.

Section 24. A State agency shall not disclose personal information in its control to other State agencies or other persons without prior or immediate consent given in writing by the person who is the subject thereof except for the disclosure in the following circumstances:

- (1) the disclosure to State officials in its own agency for the purpose of using it in accordance with the powers and duties of such agency;
- (2) the disclosure in its ordinary use within the objectives of the provision for such personal information system;
- (3) the disclosure to State agencies which operate in the field of planning, statistics or censuses and have the duty to keep the personal information undisclosed;
- (4) the disclosure for studies and research without mentioning the name or part revealing the identity of the person to whom the personal information is related;
- (5) the disclosure to the National Archives Division, Fine Arts Department or other State agencies under section 26 paragraph one for the purpose of evaluating the value of keeping such information;
- (6) the disclosure to State officials for the purpose of preventing the violation of law or non-

compliance with the law, conducting investigations and inquiries or instituting legal actions of any type whatsoever;

(7) the disclosure necessary for the prevention or elimination of hazards to the life or health of persons;

(8) the disclosure to the Court, State officials, State agencies or persons having the power under the law to make a request for such information;

(9) other cases as prescribed in the Royal Decree;

In disclosing the personal information under paragraph one (3), (4), (5), (6), (7), (8) and (9), a list recording the disclosure shall be prepared and attached to such information in accordance with the rules and procedure prescribed in the Ministerial Regulation.

Section 25. Subject to section 14 and section 15, a person shall have the right to get access to personal information relating to him. When such person makes a request in writing, the State agency in control of such information shall allow him or his authorized representative to inspect or obtain a copy of the same. and section 9 paragraph two and paragraph three shall apply *mutatis mutandis*.

In the case where there exists a reasonable ground to disclose a medical report relating to any person, State officials may disclose it only to doctors entrusted by such person.

A person who considers that any part of personal information relating to him is incorrect shall have the right to make a request in writing to the State agency in control of such information to correct, alter or delete that part of information. The State agency shall consider the request and notify its result to such person without delay.

In the case where the State agency fails to correct, alter or delete the information pursuant to the request. such person shall have the right to appeal to the Information Disclosure Tribunal within thirty days as from the date of the receipt of the notification of the order refusing to correct, alter or delete the same. The appeal shall be submitted through the Board and, in any case, the person

who is the subject of the information shall have the right to require the State official to attach his request to the relevant part of the information.

Such persons as specified in the Ministerial Regulation shall have the right to take action under section 23, section 24 and this section on behalf of a minor, an incompetent person, a quasi-incompetent person or the deceased person who was the subject of the information.

CHAPTER IV

Historical information

Section 26. A State agency shall deliver official information, which it does not wish to keep or which is kept beyond the period under paragraph two as from the date of completing such information, to the National Archives Division, Fine Arts Department or other State agencies as specified in the Royal Decree, in order that it is selected for public studies.

The period of delivery of the official information under paragraph one shall be classified as follows:

- (1) in respect of official information under section 14, seventy-five years;
- (2) in respect of official information under section 15, twenty years.

The period under paragraph two may be extended in the following cases:

- (1) where the State agency still needs to keep the official information for its own use; provided that, it shall be kept and made available for public studies as agreed upon with the National Archives Division, Fine Arts Department;

(2) where State agency is of the opinion that such official information should not yet be disclosed; provided that, an order extending the period shall be issued for each particular case and such order shall also specify the length of extension which shall not exceed five years each.

The inspection or review of the extension of time in excess of necessity shall be in accordance with the rules and procedure as prescribed in the Ministerial Regulation.

The provisions of this section shall not apply to official information the destruction of which is required or allowed to be carried out by State agencies or State officials without need to keep it in accordance with the Rule prescribed by the Council of Ministers.

CHAPTER V

Official Information Board

Section 27. There shall be the Official Information Board consisting of Minister entrusted by the Prime Minister as Chairman, Permanent Secretary for the Office of the Prime Minister, Permanent Secretary for Defence, Permanent Secretary for Agriculture and Co-operatives, Permanent Secretary for Finance, Permanent Secretary for Foreign Affairs, Permanent Secretary for Interior, Permanent Secretary for Commerce. Secretary-General of the Council of State, Secretary-General of the Civil Service Commission, Secretary-General of the National Security Council, Secretary-General of the House of the Representatives, Director of the National Intelligence Agency, Director of the Bureau of the Budget and nine other qualified persons appointed by the Council of Ministers from the public sector and the private sector as members.

The Permanent Secretary for the Office of the Prime Minister shall appoint a Government official of the Office of the Permanent Secretary for the Office of the Prime Minister to act as Secretary and two others as Assistant Secretaries.

Section 28. The Board shall have the powers and duties as follows:

- (1) to supervise and give advice with regard to the performance of duties of State officials and State agencies for the implementation of this Act;
- (2) to give advice to State officials or State agencies with regard to the implementation of this Act as requested;
- (3) to give recommendations on the enactment of the Royal Decrees and the issuance of the Ministerial Regulations or the Rules of the Council of Ministers under this Act;
- (4) to consider and give opinions on the complaints under section 13;
- (5) to submit a report on the implementation of this Act to the Council of Ministers from time to time as appropriate but at least once a year;
- (6) to perform other duties provided in this Act; (7) to carry out other acts as entrusted by the Council of Ministers or the Prime Minister.

Section 29. A qualified member appointed under section 27 shall hold office for the term of three years as from the date of appointment. The outgoing qualified member may be re-appointed.

Section 30. In addition to the vacation of office at the expiration of the term, a qualified member appointed under section 27 vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed by the Council of Ministers by reason of misconduct, improper or dishonest performance of his duties, or incapability;
- (4) being a bankrupt;
- (5) being an incompetent or quasi-incompetent person;
- (6) having been imprisoned by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence.

Section 31. At a meeting of the Board, the presence of not less than one-half of the total number

of the members is required to constitute a quorum.

The Chairman shall preside over the meeting. If the Chairman is not present at the meeting or is unable to perform his duties, the members present may elect one among themselves to preside over the meeting.

The decision of the meeting shall be by a majority of votes. Each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as a casting vote.

Section 32. The Board shall have the power to summon any person to give statements or to furnish an object, document or evidence for its consideration.

Section 33. In the case where a State agency denies that there is such information as requested, whether it is the case under section 11 or section 25, if the person so requesting does not believe that it is true and lodges a complaint with the Board under section 13, the Board shall have the power to inspect the relevant official information and notify the complainant of the result of the inspection.

The State agency or State official shall allow the Board or the person entrusted by the Board to inspect the information which is in its or his possession, whether or not it is the information permitted to be disclosed.

Section 34. The Board may appoint a sub-committee for considering any matter or performing any act as entrusted by the Board, and the provisions of section 31 shall apply mutatis mutandis.

CHAPTER VI

Information Disclosure Tribunals

Section 35. There shall be Information Disclosure Tribunals in appropriate fields, which are appointed by the Council of Ministers upon the recommendation of the Board, having the power and duty to consider and decide an appeal against an order prohibiting the disclosure of information under section 14 or section 15, order dismissing an objection under section 17 and order refusing the correction, alteration or deletion of personal information under section 25.

The appointment of Information Disclosure Tribunals under paragraph one shall be made on the basis of the specialized fields of the official information, such as the fields of national security, national economy and finance or law enforcement.

Section 36. Each Information Disclosure Tribunal consists of such number of persons as necessary, but shall not be less than three persons, and the Government officials appointed by the Board shall act as Secretary and Assistant Secretaries.

In considering the information of any State agency, the member of the Information Disclosure Tribunal who is from that State agency shall not participate in such consideration.

Members of the Information Disclosure Tribunal shall not be Secretary or Assistant Secretaries.

Section 37. The Board shall consider sending the appeals to the Information Disclosure Tribunals on the basis of their specialization within seven days as from the date of the receipt thereof. The decision of an Information Disclosure Tribunal shall be deemed final. In making the decision, an observation may be made to the Board with regard to appropriate action to be taken by the State agency concerned in any particular case.

The provisions of section 13 paragraph two shall apply mutatis mutandis to the consideration of appeals by the Information Disclosure Tribunals.

Section 38. The powers and duties of the Information Disclosure Tribunal in each field, its procedure and quorum shall be in accordance with the Rule prescribed by the Board and published in the Government Gazette.

Section 39. The provisions of section 29, section 30 and section 32 and the penalties in conjunction with such provisions shall apply mutatis mutandis to Information Disclosure Tribunals.

CHAPTER VII

Penalties

Section 40. Any person who fails to comply with an order of the Board issued under section 32 shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand Baht or to both.

Section 41. Any person who violates or fails to comply with the restriction or condition imposed by the State official under section 20 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both.

Transitory Provisions

Section 42. The provisions of section 7, section 8 and section 9 shall not apply to official information having been in existence before the date this Act comes into force.

A State agency shall publish the information under paragraph one or make it available for public inspection, as the case may be, in accordance with the rules and procedure prescribed by the Board.

Section 43. The Rule on the National Security Protection, B.E. 2517 (1974), insofar as it deals with the official information, shall continue to be in force to such an extent as not contrary to or inconsistent with this Act, unless otherwise provided in the Rule prescribed by the Council of Ministers under section 16.

VITAE

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