

A Right to Information Law

ARRANGEMENT OF SECTIONS

Preamble

PART I

DEFINITIONS AND PURPOSE

Section

1. Definitions
2. Purpose

PART II

THE RIGHT TO ACCESS INFORMATION HELD BY PUBLIC BODIES

3. Freedom of Information
4. General Right of Access
5. Legislation Prohibiting or Restricting Disclosure
6. Public and Private Bodies
7. Records
8. Request for Information
9. Time Limits for Responding to Requests
10. Notice of Response
11. Fees
12. Means of Communicating Information
13. If a Record is Not Held
14. Vexatious, Repetitive or Unreasonable Requests

PART III

MEASURES TO PROMOTE OPENNESS

15. Guide to Using the Act
16. Information Officer
17. Publication Schemes
18. Maintenance of Records
19. Reports to the Information Commission

PART IV

EXCEPTIONS

20. Public Interest Override
21. Information Already Publicly Available
22. Severability
23. Personal Information
24. Legal Privilege
25. Commercial and Confidential Information
26. Health and Safety
27. Law Enforcement
28. Defence and Security
29. Policy Making and Operations of Public Bodies
30. Time Limits

PART V

THE INFORMATION COMMISSION

31. Appointment of the Information Commission
32. Independence and Powers
33. Salary and Expenses
34. Staff
35. General Activities
36. Reports
37. Protection of the Commissioners

PART VI

ENFORCEMENT BY THE COMMISSION

38. Complaint to the Commission
39. Decision on the Complaint
40. Direct Implementation of Decision
41. Commission's Powers to Investigate
42. Appeal from Commission's Decisions and Orders
43. Binding Nature of Commission's Decisions and Orders

PART VII

WHISTLEBLOWERS

44. Whistleblowers

PART VIII

CRIMINAL AND CIVIL RESPONSIBILITY

45. Good Faith Disclosures
46. Criminal Offences

PART IX

MISCELLANEOUS PROVISIONS

47. Regulations
48. Interpretation
49. Short Title and Commencement

A Right to Information Law

An Act to promote maximum disclosure of information in the public interest, to guarantee the right of everyone to access information, and to provide for effective mechanisms to secure that right.

Recalling that the right to access information held by public authorities is included in the right to seek, receive and impart information, as guaranteed by Article 19 of the Universal Declaration of Human Rights;

Stressing that public bodies hold information not for themselves but on behalf of the public;

Recognising the fundamental importance of open and transparent government, and the right to access information to participatory democracy, in controlling corruption, in promoting public accountability and

good governance, and to promoting personal dignity;

Be it enacted by the Kelantan State Assembly as follows:

PART I: DEFINITIONS AND PURPOSE

Definitions

1.

In this Act, unless the context otherwise requires: –

- (a) “commission” is the Information Commission as established under section 31 of this Act;
- (b) “commissioner” is any member of the Information Commission, established by Part V, or the holder of that office, as the context may require;
- (c) “information officer” is an individual with specific responsibilities under this Act, required to be appointed by every public body pursuant to section 16(1);
- (d) “official” means any person employed by the relevant body, whether permanently or temporarily and whether part-time or full-time;
- (e) “minister” means the Cabinet minister responsible for the administration of justice;
- (f) “private body” has the meaning given by section 6(3);
- (g) “public body” has the meaning given by section 6(1) and (2);
- (h) “publish” means make available in a form generally accessible to members of the public and includes print, broadcast and electronic forms of dissemination;
- (i) “personal information” means information which relates to a living individual who can be identified from that information; and
- (j) “record” has the meaning given by section 7.

Purpose

2.

The purposes of this Act are: –

- (a) to provide a right of access to any information held by public bodies in accordance with the principles listed below:
 - I. That such information should be available to the public; and that necessary
 - II. exceptions to the right of access should be limited and specific; and
 - III. that decisions on
 - IV. the disclosure of such information should be reviewed independently of government;
- and
- (b) to provide a right of access to any information held by private bodies where this is necessary for the exercise or protection of any right or liberty protected under the Federal Constitution of Malaysia, subject only to limited and specific exceptions.

PART II: THE RIGHT TO ACCESS INFORMATION HELD BY PUBLIC AND PRIVATE BODIES

Freedom of Information

3.

Everyone shall have the right to freedom of information, including the right to access information held by public bodies, subject only to the provisions of this Act.

General Right of Access

4.

- (1) Any person making a request for information to a public body shall be entitled, subject

only to the provisions of Parts II and IV of this Act: –

- (a) to be informed whether or not the public body holds a record containing that information or from which that information may be derived; and
- (b) if the public body does hold such a record, to have that information communicated to him or her.

(2) Any person making a request for information to a private body which holds information necessary for the exercise or protection of any right or liberty protected under the Federal Constitution of Malaysia shall, subject only to the relevant provisions of Parts II and IV of this Act, be entitled to have that information communicated to him or her.

Legislation Prohibiting or Restricting Disclosure

5.

(1) This Act applies to the exclusion of any provision of other State legislation that prohibits or restricts the disclosure of a record by a public or private body.

(2) Nothing in this Act limits or otherwise restricts the disclosure of information pursuant to any other legislation, policy or practice.

Public and Private Bodies

6.

(1) For purposes of this Act, a public body includes any body within the State of Kelantan: –

- (a) established by or under the Federal Constitution; or
- (b) established by statute; or
- (c) which forms part of any level or branch of Government; or
- (d) owned, controlled or substantially financed by funds provided by Federal or State Government or the State; or
- (e) carrying out a statutory or public function, provided that the bodies indicated in sub-section (1)(e) are public bodies only to the extent of their statutory or public functions.

(2) The State Information Commission or the State Executive Committee may by order designate as a public body any body that carries out a public function.

(3) For purposes of this Act, a private body includes any body, excluding a public body, that: –

- (a) Carries on any trade, business or profession, but only in that capacity; or
- (b) has legal personality.

Records

7.

(1) For purposes of this Act, a record includes any files, facts, memoranda, figures, diagrams, statistics, maps, photographs, drawings, computer print-outs or any other recorded information, regardless of its form, source, date of creation, or official status, whether or not it was created by the body that holds it and whether or not it is classified.

(2) For purposes of this Act, a public or private body holds a record if: –

- (a) the public or private body holds the record, other than on behalf of another person; or
- (b) another person, public or private body holds the record, on behalf of the public or private body.

Request for Information

8.

(1) For purposes of section 4, a request for information is a request in writing to any official of a public or private body that is in sufficient detail to enable an

experienced official to identify, with reasonable effort, whether or not the body holds a record with that information.

- (2) Where a request for information pursuant to section 4(1) does not comply with the provisions of sub-section (1), the official who receives the request shall, subject to sub-section (5), render such reasonable assistance, free of charge, as may be necessary to enable the request to comply with sub-section (1).
- (3) An individual who is unable, because of illiteracy or disability, to make a written request for information pursuant to section 4(1) may make an oral request, and the official who receives an oral request shall, subject to sub-section (5), reduce it to writing, including their name and position within the body, and give a copy thereof to the person who made the request.
- (4) A request for information under section 4(2) must identify the right the person making the request is seeking to exercise or protect and the reasons why the information is required to exercise or protect that right.
- (5) An official who receives a request for information may transfer that request to the Information Officer for purposes of complying with sub-sections (2) and/or (3).
- (6) A public or private body may prescribe a form free of charge for requests for information, provided that such forms do not unreasonably delay requests or place an undue burden upon those making requests.
- (7) A public or private body which receives a request for information shall provide the requester with a receipt documenting the request.

Time Limits for Responding to Requests

9.

- (1) Subject to sub-section (3), a public or private body must respond to a request for information pursuant to section 4 as soon as is reasonably possible and in any event within twenty working days of receipt of the request.
- (2) Where a request for information relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person, a response must be provided within 48 hours.
- (3) A public or private body may, by notice in writing within the initial twenty day period, extend the period in sub-section (1) to the extent strictly necessary, and in any case to not more than forty working days, where the request is for a large number of records or requires a search through a large number of records, and where compliance within twenty working days would unreasonably interfere with the activities of the body.
- (4) Failure to comply with sub-section (1) is deemed to be a refusal of the request.

Notice of Response

10.

- (1) The response under section 9 to a request for information pursuant to section 4(1) must be by notice in writing and state: –
 - (a) the applicable fee, if any, pursuant to section 11, in relation to any part of the request which is granted, and the form in which the information will be communicated;
 - (b) adequate reasons for the refusal in relation to any part of the request which is not granted, subject only to Part IV of this Act;
 - (c) in relation to any refusal to indicate whether or not the public body holds a record containing the relevant information, the fact of such refusal and adequate reasons for it; and

- (d) any right of appeal the person who made the request may have.
- (2) The response under section 9 to a request for information pursuant to section 4(2) must be by notice in writing and state: –
 - (a) in relation to any part of the request which is granted, the applicable fee, if any, pursuant to section 11, and the form in which the information will be communicated; and
 - (b) in relation to any part of the request which is not granted, adequate reasons for the refusal.
- (3) In relation to any part of a request that is granted, communication of the information must take place forthwith, subject only to section 11.

Fees

11.

- (1) The communication of information pursuant to a request under section 4 by a public or private body may, subject to sub-sections (2) and (3), be made conditional upon payment by the person making the request of a reasonable fee, which shall not exceed the actual cost of preparing and communicating the information, excluding the cost of searching for or reviewing information.
- (2) Payment of a fee shall not be required for requests for personal information, and requests in the public interest.
- (3) The State Executive Committee may, after consultation with the Commission, make regulations providing: –
 - (a) for the manner in which fees are to be calculated; and
 - (b) that no fee is to be charged in prescribed cases; and
 - (c) that any fee cannot exceed a certain maximum.
- (4) A public body shall not require payment of a fee under sub-section (1) where the cost of collecting that fee would exceed the amount of the fee.

Means of Communicating Information

12.

- (1) Where a request indicates a preference as to the form of communication of information contained in sub-section (2), a public or private body communicating information pursuant to a request for information under section 4 shall, subject to sub-section (3), do so in accordance with that preference.
- (2) A request may indicate the following preferences as to the form of communication of information: –
 - (a) a true copy of the record in permanent or other form; or
 - (b) an opportunity to inspect the record, where necessary using equipment normally available to the body; or
 - (c) an opportunity to copy the record, using his or her own equipment; or
 - (d) a written transcript of the words contained in a sound or visual form; or
 - (e) a transcript of the content of a record, in print, sound or visual form, where such transcript is capable of being produced using equipment normally available to the body; or
 - (f) a transcript of the record from shorthand or other codified form.
- (3) A public or private body shall not be required to communicate information in the form indicated by the person making the request where to do so would: –
 - (a) Unreasonably interfere with the effective operation of the body; or
 - (b) be detrimental to the preservation of the record.
- (4) Where a record exists in more than one language, communication of the record

shall, from among those languages, be given in accordance with the language preference of the person making the request.(5) An individual who is unable, because of illiteracy or any disability, to access information in the record as stored or copied, must be given the option of having the information related to them in a n a form that corresponds to their ability to communicate.

(6) Where a record pertains to a community affected by a development project, information must be made available in the language of any affected communities.

If a Record is Not Held

13. (1) Where an official who receives a request pursuant to section 4(1) believes that that request relates to information that is not contained in any record held by the public body, the official may transfer the request to the Information Officer for purposes of compliance with this section.

(2) Where an Information Officer receives a request pursuant to sub-section (1), he or she shall within a period of not more than five (5) working days confirm whether or not the public body does hold a record containing the information and, if it does not, shall, if he or she knows of another public body which does hold the relevant record: –

(a) transfer the request to that public body and inform the person making the request of such transfer; and

(b) indicate to the person making the request which public body holds the

relevant record.(3) Where a request is transferred pursuant to sub-section (2)(a), the time limit for responding to requests under section 9 shall begin to run from the date of transfer.

(4) A private body which receives a request pursuant to section 4(2) relating to information that is not contained in any record held by the private body shall notify the requester that it does not hold the information.

Vexatious, Repetitive or Unreasonable Requests

14.

(1) A public or private body is not required to comply with a request for information which is vexatious or where it has recently complied with a substantially similar request from the same person.

(2) A public or private body is not required to comply with a request for information where to do so would unreasonably divert its resources.

PART III: MEASURES TO PROMOTE OPENNESS

Guide to Using the Act

15.

(1) The Commission shall, as soon as practicable, compile in as many languages as practicable a clear and simple guide containing practical information to facilitate the effective exercise of rights under this Act, and shall disseminate the guides widely in an accessible form.

(2)The guide in sub-section (1) shall be updated on a regular basis, as necessary.(3) The guide in sub-section (1) shall be made available in a form that corresponds to the ability to communicate of individuals with a disability or who are illiterate.

Information Officer

16.

(1) Every public body shall appoint an Information Officer and ensure that members of the public have easy access to relevant information concerning the Information Officer, including his or her name, function and contact details.

- (2) The Information Officer shall, in addition to any obligations specifically provided for in other sections of this Act, have the following responsibilities: –
- (a) to promote within the public body the best possible practices in relation to record maintenance, archiving and disposal; and
 - (b) to provide training within the public body on record maintenance, archiving and dealing with information requests; and
 - (c) to ensure that the general public are aware of their rights under this Act; and
 - (d) to serve as a central contact within the public body for receiving requests for information, for assisting individuals seeking to obtain information and for receiving individual complaints regarding the performance of the public body relating to information disclosure.

Publication Schemes

17(1) It shall be the duty of every public authority: –

- (a) to adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Commission (in this Act referred to as a "publication scheme"); and
 - (b) to publish information in accordance with its publication scheme; and
 - (c) from time to time to review its publication scheme.
- (2) A publication scheme must: –
- (a) specify classes of information which the public authority publishes or intends to publish; and
 - (b) specify the manner in which information of each class is, or is intended to be, published; and
 - (c) specify whether the material is, or is intended to be, available to the public free of charge or on payment.
- (3) In adopting or reviewing a publication scheme, a public authority shall have regard to the public interest: –
- (a) in allowing public access to information held by the authority; and
 - (b) in the publication of reasons for decisions made by the authority.
- (4) A public authority shall publish its publication scheme in such manner as it thinks fit.
- (5) The Commission may, when approving a scheme, provide that his or her approval is to expire at the end of a specified period.
- (6) Where the Commission has approved the publication scheme of any public authority, he or she may at any time give notice to the public authority revoking his approval of the scheme as from the end of the period of six months beginning with the day on which the notice is given.
- (7) Where the Commission: –
- (a) refuses to approve a proposed publication scheme; or
 - (b) revokes its approval of a publication scheme,
- it must give the public authority a statement of his reasons for doing so.

Maintenance of Records

18. (1) Every public body is under an obligation to maintain its records in a manner which facilitates the right to information, as provided for in this Act, and in accordance with the Code of Practice stipulated in sub-section (3).

- (2) Every public body shall ensure that adequate procedures are in place for the correction of personal information.
- (3) The Commission shall, after appropriate consultation with interested parties, issue and from time to time update a Code of Practice relating to the keeping, management and disposal of records.

Reports to the Information Commission

19.

The Information Officer of every public body shall annually submit to the Commission a report on the activities of the public body pursuant to, or to promote compliance with, this Act, which shall include information about: –

- (a) the number of requests for information received, granted in full or in part, and refused; and
- (b) how often and which sections of the Act were relied upon to refuse, in part or in full, requests for

information; and

(c) appeals from refusals to communicate information; and

(d) fees charged for requests for information; and

(e) its activities pursuant to section 16 (training of officials); and

(f) its activities pursuant to section 17 (duty to publish); and

(g) its activities pursuant to section 18 (maintenance of records).

PART IV: EXCEPTIONS

Public Interest Override

20.

Notwithstanding any provision in this Part, a body may not refuse to indicate whether or not it holds a record, or refuse to communicate information, unless the harm to the protected interest outweighs the public interest in disclosure.

Information Already Publicly Available

21.

Notwithstanding any provision in this Part, a body may not refuse to communicate information where the information is already publicly available.

Severability

22.

If a request for information relates to a record containing information which, subject to this Part, falls within the scope of an exception, any information in the record which is not subject to an exception shall, to the extent it may reasonably be severed from the rest of the information, be communicated to the requester.

Personal Information

23.

(1) A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would involve the unreasonable disclosure of personal information about a natural third party.

(2) Sub-section (1) does not apply if: –

(a) the third party has effectively consented to the disclosure of the information; or

(b) the person making the request is the guardian of the third party, or the next of kin or the executor of the will of a deceased third party; or

(c) the third party has been deceased for more than 20 years; or

(d) the individual is or was an official of a public body and the information relates to his or her function as a public official.

Legal Privilege

24.

A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where the information is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.

Commercial and Confidential Information

25.

A body may refuse to communicate information if: –

(a) the information was obtained from a third party and to communicate it would constitute an actionable breach of confidence; or

- (b) the information was obtained in confidence from a third party and: –
- i. it contains a trade secret; and
 - ii. to communicate it would, or would be likely to, seriously prejudice the commercial or financial interests of that third party; or
- (c) the information was obtained in confidence from another State or international organisation, and to communicate it would, or would be likely to, seriously prejudice relations with that State or international organisation.

Health and Safety

26.

A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, endanger the life, health or safety of any individual.

Law Enforcement

27.

A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to: –

- (a) the prevention or detection of crime; or
- (b) the apprehension or prosecution of offenders; or
- (c) the administration of justice; or
- (d) the assessment or collection of any tax or duty; or
- (e) the operation of immigration controls; or
- (f) the assessment by a public body of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified.

Defence and Security

28.

A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the defence of either the State of Kelantan or the Federation of Malaysia.

Policy Making and Operations of Public Bodies

29.

(1) A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to: –

- (a) cause serious prejudice to the effective formulation or development of government policy; or
 - (b) seriously frustrate the success of a policy, by premature disclosure of that policy; or
 - (c) significantly undermine the deliberative process in a public body by inhibiting the free and frank provision of advice or exchange of views; or
 - (d) significantly undermine the effectiveness of a testing or auditing procedure used by a public body.
- (2) Sub-section (1) does not apply to facts, analyses of facts, technical data or statistical information.

Time Limits

30.

- (1) The provisions of sections 26–31 apply only inasmuch as the harm they envisage would, or would be likely to, occur at or after the time at which the request is considered.
- (2) Sections 27(c), 29, 30 and 31 do not apply to a record which is more than 30 years old.

PART V: THE INFORMATION COMMISSION

Appointment of the Information Commission

31. (1) The Commission shall consist of five members, inclusive of a Chairperson, appointed by the Sultan of Kelantan after nomination by a two-thirds majority vote of Kelantan State Assembly. and after a process in accordance with the following principles: –

- (a) participation by the public in the nomination process;
- (b) transparency and openness; and
- (c) the publication of a shortlist of candidates.

(2) No-one may be appointed Commissioner if he or she: –

- (a) holds an official office in, or is an employee of a political party, or holds an elected or appointed position in central or local government; or
- (b) has been convicted, after due process in accordance with internationally accepted legal principles, of a violent crime and/or a crime of dishonesty or theft, for which he or she has not been pardoned.

(3) The Commissioners shall hold office for a term of seven years, and may serve a maximum of one term, but may be removed by the Sultan of Kelantan upon a recommendation passed by a two-thirds majority vote of the Kelantan State Assembly.

(4) Members of the Commission must be appointed within 12 months of the gazetting of this Act.

Independence and Powers

32.

(1) The Commission shall enjoy operational and administrative autonomy from any other person or entity, including the government and any of its agencies, except as specifically provided for by law.

(2) The Commission shall have all powers, direct or incidental, as are necessary to undertake its functions as provided for in this Act, including full legal personality, and the power to acquire, hold and dispose of property.

Salary and Expenses

33.

The Commissioners shall each be paid a salary equal to the salary of a judge of the High Court and are entitled to be paid reasonable travel and living expenses incurred in the performance of their duties.

Staff

34.

The Commissioners may appoint such officers and employees as are necessary to enable them to perform their duties and functions.

General Activities

35.

In addition to any other powers and responsibilities provided for in this Act, the Commissioner may: –

- (a) monitor and publicly report on the compliance by public bodies with their obligations under this Act; and
- (b) make recommendations for reform both of a general nature and directed at specific public bodies; and
- (c) co-operate with or undertake training activities for public officials on the right to information and the effective implementation of this Act; and
- (d) refer to the appropriate authorities cases which reasonably disclose evidence of criminal offences under this Act; and
- (e) publicise the requirements of this Act and the rights of individuals under it.

Reports

36.

(1) The Commissioners shall, within three months after the termination of each financial year, lay before the Kelantan State Assembly an annual report on compliance by public bodies with this Act, the activities of his or her office and audited accounts of the office during that financial year.

(2) The Commissioner may from time to time lay before the Kelantan State Assembly such other reports as he or she deems appropriate.

Protection of the Commissioners³⁷.

(1) No criminal or civil proceedings lie against the Commissioners, or against any person acting on behalf of or under the direction of the Commissioners, for anything done, reported or said in good faith in the course of the exercise of any power or duty under this Act.

(2) For the purposes of the law of libel or slander, anything said or any information supplied pursuant to an investigation under this Act is privileged, unless that information is shown to have been said or supplied with malice.

PART VI: ENFORCEMENT BY THE COMMISSION

Complaint to the Commission

38.

A person who has made a request for information may apply to the Commission for a decision that a public or private body has failed to comply with an obligation under Part II, including by: –

(a) refusing to indicate whether or not it holds a record, or to communicate information, contrary to section 4; or

(b) failing to respond to a request for information within the time limits established in section 9; or

(c) failing to provide a notice in writing of its response to a request for information, in accordance with section 10; or

(d) failing to communicate information forthwith, contrary to section 10(3);

(e) charging an excessive fee, contrary to section 11; or

(f) failing to communicate information in the form requested, contrary to section 12.

Decision on the Complaint

39. (1) The Commission shall, subject to sub-section (2), decide on an application under section 38 as soon as is reasonably possible, and in any case within 30 days, after giving both the complainant and the relevant public or private body an opportunity to provide their views in writing.

(2) The Commission may summarily reject applications: –

(a) which are frivolous, vexatious or clearly unwarranted; or

(b) where the applicant has failed to use any effective and timely internal appeals mechanisms provided by the relevant public or private body.

(3) In any application under section 38, the burden of proof shall be on the public or private body to show that it acted in accordance with its obligations under Part II.

(4) In its decision pursuant to sub-section (1), the Commission may: –

(a) reject the application; and/ or

(b) require the public or private body to take such steps as may be necessary to bring it into compliance with its obligations under Part II; and/ or

(c) require the public body to compensate the complainant for any loss or other detriment suffered; and/or

(d) in cases of egregious or wilful failures to comply with an obligation under Part II, impose a fine on the public body.

(5) The Commission shall serve notice of its decision, including any rights of appeal, on both the complainant and the public or private body.

Direct Implementation of Decision

40.

- (1) The Commission may, after giving a public body an opportunity to provide their views in writing, decide that a public body has failed to comply with an obligation under Part III.
- (2) In its decision pursuant to sub-section (1), the Commission may require the public body to take such steps as may be necessary to bring it into compliance with its obligations under Part III, including by: –
 - (a) appointing an information officer; and/ or
 - (b) publishing certain information and/or categories of information; and/ or
 - (c) making certain changes to its practices in relation to the keeping, management and destruction of records, ; and/or
 - (d) enhancing the provision of training on the right to information for its officials; and/ or
 - (e) providing it with an annual report, in compliance with section 19; and/or
 - (f) in cases of egregious or wilful failures to comply with an obligation under Part III, paying a fine.
- (3) The Commission shall serve notice of its decision, including any rights of appeal, on the public body.

Commission's Powers to Investigate

41.

- (1) In coming to a decision pursuant to section 39 or 40, the Commission shall have the power to conduct a full investigation, including by issuing orders requiring the production of evidence and compelling witnesses to testify.
- (2) The Commission may, during an investigation pursuant to sub-section (1), examine any record to which this Act applies, and no such record may be withheld from the Commission on any grounds, except in cases of conflict with Federal legislation.

Appeal from Commission's Decisions and Orders

42.

- (1) The complainant, or the relevant public or private body, may, within 45 days, appeal to the court for a full review of a decision of the Commission pursuant to section 39 or 40, or an order pursuant to section 41(1).
- (2) In any appeal from a decision pursuant to section 39, the burden of proof shall be on the public or private body to show that it acted in accordance with its obligations under Part II.

Binding Nature of Commission's Decisions and Orders

43.

Upon expiry of the 45-day period for appeals pursuant to section 45, the Commission may certify in writing to the court any failure to comply with a decision pursuant to section 39 or 40, or an order pursuant to section 41(1), and the court shall consider such failure under the rules relating to contempt of court.

PART VII: WHISTLEBLOWERS

Whistleblowers

44.

- (1) No one may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment, unless this release of information conflicts with Federal legislation.
- (2) For purposes of sub-section (1), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a public body.

PART VIII: CRIMINAL AND CIVIL RESPONSIBILITY

Good Faith Disclosures

45.

No one shall be subjected to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Act, as long as they acted reasonably and in good faith, unless this action conflicts with Federal legislation.

Criminal Offences

46.

(1) It is a criminal offence to wilfully: –

- (a) obstruct access to any record contrary to Part II of this Act; or
- (b) obstruct the performance by a public body of a duty under Part III of this Act; or
- (c) interfere with the work of the Commission; or
- (d) destroy records without lawful authority.

(2) Anyone who commits an offence under sub-section (1) shall be liable on summary conviction to a fine not exceeding RM2,000 and/or to imprisonment for a period not less than six months and not exceeding two years.

PART IX: MISCELLANEOUS PROVISIONS

Regulations

47.

(1) The State Assembly may, by notice in the *Gazette* and after consultation with the Commission make regulations regarding: –

- (a) additional forms of communication of information under section 12(2); or
- (b) training of officials under section 16; or
- (c) publication schemes under section 17; or
- (d) reports to the Commissioner under section 19; or
- (e) any notice required by this Act; or
- (f) Any administrative or procedural matter necessary to give effect to this Act.

(2) Any regulation under sub-section (1) must, before publication in the *Gazette*, be laid before the Kelantan State Assembly.

Interpretation

5148. When interpreting a provision of this Act, every court must adopt any reasonable interpretation of the provision that best gives effect to the right to information.

Short Title and Commencement

49.

(1) This Act may be cited as the Right to Information Act [insert relevant year].

(2) This Act shall come into effect on a date proclaimed by the Sultan of Kelantan provided that it shall automatically come into effect six months after its passage into law if no proclamation is forthcoming.