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.

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 resonable 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 reques t 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 S tate 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 relevent 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 he 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 da!e 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 Slate 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 nave 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 v;ith 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 inatter or performing any act as entrusted by the Board, and the provisions of section 31 shall apply mutalis 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 wi!h 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.

Countersigned by:
General Chavalit Yongchaiyudh
Prime Minister