

# FREEDOM OF INFORMATION BILL 2026

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## A BILL

### *i n t i t u l e d*

An Act to provide for the procedure to request for access to, and the external review procedure by the Ombudsman in relation to, information, other than the information protected and prohibited to be disclosed under other written laws, and subject to the exempted information under this Act which is within the control of the public authority, and to provide for related matters.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

### PART I

#### PRELIMINARY

#### **Short title and commencement**

**1.** (1) This Act may be cited as the Freedom of Information Act 2026.

(2) This Act comes into operation on a date to be appointed by the Prime Minister by notification in the *Gazette*.

#### **Application**

**2.** (1) This Act shall apply to the Federal Government.

(2) This Act shall provide for the procedure to request for access to information subject to the exempted information under this Act.

(3) This Act shall be read together with the provisions of other written laws which allow for access to official documents or information, subject to the conditions provided under such laws, and the provisions of this Act shall be in addition to, and not in derogation of, the provisions of the relevant written laws.

### **Interpretation**

**3.** In this Act, unless the context otherwise requires—

“document” has the meaning assigned to it under the Evidence Act 1950 [*Act 56*];

“head of public authority” means the public officer charged with the responsibility in respect of any Ministry, department or any public service;

“information” means any information contained in any official document within the control of the public authority excluding the matters mentioned under section 9;

“personal information” means information about an individual, including—

- (a) information relating to the race, national or ethnic origin, religion, age, sex or marital or family status of the individual;
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- (c) any identifying number, symbol or other particular assigned to the individual;
- (d) the address, telephone number, fingerprints or blood type of the individual;

- (e) the correspondence sent to a public authority by the individual that is private or confidential in nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- (f) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;
- (g) the personal opinions or views of the individual except where they relate to another individual; and
- (h) the views or opinions of another individual about the individual;

“exempted information” means the information as specified under section 12;

“responsible Minister” means each Minister who is respectively charged with the responsibility in respect of the functions in accordance with the Ministerial Functions Act 1969 [*Act 2*];

“Ombudsman” has the meaning assigned to it under the Ombudsman Act 20... [*Act ...*];

“appointed officer” means the officer appointed under section 4;

“public authority” means—

- (a) the Federal Government;
- (b) the Parliamentary Service established under the Parliamentary Service Act 2025 [*Act 869*];
- (c) the statutory body of the Federal Government established under an Act of Parliament; and
- (d) the local authorities of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya;

“official secret” has the meaning assigned to it under the Official Secrets Act 1972 [*Act 88*];

“official” relates to any public authority.

## PART II

## APPOINTED OFFICER

**Appointment of appointed officer**

**4.** The responsible Minister shall appoint one or more officers within the public authority as appointed officers to process a request for access to information under this Act.

## PART III

## PROCEDURE OF REQUEST

**Request for access**

**5.** (1) A person who is a citizen of Malaysia aged eighteen years and above may request for access to information under this Act which is in the control of the public authority.

(2) A person mentioned under subsection (1) may request on behalf of a third party if the person is—

- (a) the legal guardian of the third party;
- (b) the legal heir; or
- (c) the legal administrator of a deceased party.

(3) A person mentioned under subsection (1) or (2) may request for access to information by making a written request to the public authority specifying the particulars of information as follows:

- (a) the person's name, identification card number, residential address and postcode, and contact details;
- (b) in the case where the person is requesting for access to information on behalf of a corporate or an unincorporated body, the name, registration number, registered address and postcode and contact details of the corporate or unincorporated body;

- (c) in the case where the person is requesting for access to information acts in the capacity under subsection (2), the relevant document as proof of such capacity;
- (d) the requested information; and
- (e) the specific purpose of the request as specified under section 6.

(4) A request made under this section shall be submitted together with the payment of fee as may be prescribed by the Yang di-Pertuan Agong by an order.

(5) Upon receipt of the request, the appointed officer shall provide a written acknowledgement of the request to the person.

### **Purpose of request**

6. (1) A request for access to information under section 5 may be allowed for the following purposes:

- (a) verifying and making correction to personal information or personal information of a third party in the case mentioned under subsection 5(2);
- (b) research or educational purposes conducted for non-commercial purpose by any student, apprentice or trainee, or a researcher or resident scholar in a higher educational institution or research institution in Malaysia;
- (c) reporting, publication or dissemination of information by a media practitioner to the public; and
- (d) any other purpose not contrary to any written law where that person has proper and tangible interest and has been prejudiced by the act of the public authority.

(2) The purpose mentioned under subsection (1) shall not provide a person, the press or media, a right to access to information.

(3) For the purposes of this section, “media practitioner” has the meaning assigned to it under the Malaysian Media Council Act 2025 [*Act 868*].

**Verification of request**

7. The appointed officer may require the person making a request under section 5 to provide reasonable proof of identity and citizenship, or any other information or document relating to the request in the manner as may be determined by the public authority.

**Decision of request**

8. (1) The public authority shall, within fifteen working days after the receipt of the request under section 5, make a decision to allow the request to access the information requested or to reject the request on any grounds referred to in section 9, and shall immediately communicate such decision to the person.

(2) Where a decision is made to allow the request to access the information requested for under subsection (1), such information shall be given to the person within fourteen working days from the date the decision is made.

(3) Notwithstanding subsection (1), where the request for access to information is made by a person that concerns the life and liberty of an individual, the public authority shall—

- (a) within forty-eight hours of the receipt of such request, make a decision to allow the request or to reject the request on any grounds referred to in section 9; and
- (b) in the case where the request is allowed, provide such information to the person as soon as practicable within fourteen working days from the date the decision is made under paragraph (a).

(4) The public authority may extend the period referred to in subsection (2) or paragraph (3)(b) for a further period of not more than twenty-one working days or any other reasonable period where—

- (a) the request involves large number of documents and providing the information within fourteen working days would unreasonably interfere with the activities of the public authority; or

- (b) the request requires a search for records in the office of the public authority situated in a different State, city or district.

(5) Where a period for providing the information is extended due to any circumstances referred to in subsection (4), the appointed officer shall, within fourteen working days from the date of the expiry of the period provided under subsection (2) or paragraph (3)(b), notify the person the period of the extension and reasons for the extension.

### **Refusal of request**

**9.** (1) The request for access to information under section 5 may be refused by the public authority, for the following reasons:

- (a) the requested information is an exempted information under Part IV;
- (b) the requested information is publicly available;
- (c) the requested information does not exist or is not within the control of the public authority;
- (d) subject to subsection (3), the requested information contains personal information of third party;
- (e) the request is vexatious or unreasonable; or
- (f) the request for access to information has been made and rejected within the previous six months unless the person provides a reasonable explanation for the request for the same information.

(2) When the request for access to information is refused under subsection (1), the appointed officer shall notify the person of such refusal in writing within the period provided in subsection 8(1) or paragraph 8(3)(a), as the case may be, and such written notice shall—

- (a) state the reasons of the refusal of the request as specified under subsection (1); and

- (b) inform the person of the procedures to appeal to the head of public authority against the refusal.

(3) Paragraph (1)(d) does not apply if—

- (a) the person making the request has obtained written consent from the third party to the disclosure of the information;
- (b) the person is the legal guardian of the third party or the legal heir; or
- (c) the person is the legal administrator of a deceased third party.

### **Deferment of access**

**10.** A public authority which receives a request may defer access to the requested information if such information has been submitted for and is pending publication for any proceedings in Parliament or released to the media and shall inform the person reasons for the deferment and indicate, as far as practicable, the period of the deferment.

### **Internal review**

**11.** (1) Any person aggrieved by the decision of the public authority in relation to the request made may, within fourteen working days after the date of receipt of the notice informing such refusal under subsection 9(2), appeal in writing to the head of public authority.

(2) The head of public authority may, after considering the appeal made under subsection (1) affirm, vary or set aside the decision of the public authority.

(3) Any decision made by the head of public authority under subsection (2) shall be communicated in writing to the aggrieved person.

PART IV

EXEMPTED INFORMATION

**Exempted information**

**12.** An information shall be exempted where—

- (a) the information is relating to official documents, official secrets, secrets, confidential information or information protected under other written laws;
- (b) the information relates to the detection, prevention, enforcement, investigation or prosecution of any breach or non-compliance of any law;
- (c) the information will disclose or allow someone to determine the identity of a confidential source of information related to the law enforcement or the administration of justice;
- (d) the information will disclose the existence or identity of a person included in a witness protection program;
- (e) the information will disclose the investigative steps or procedures, including the intelligence gathering methodologies, the investigative techniques or technologies, the covert practices, or the information sharing arrangements between law enforcement agencies;
- (f) the information will prejudice or obstruct the assessment or collection of any tax, duty or penalty;
- (g) the information would likely endanger the life, safety, health or welfare of any person or group of persons;
- (h) the information would likely disclose trade secrets of the public authority or of any other person;
- (i) the disclosure of the information would be likely to prejudice the commercial, financial, economy or property interests of the public authority;

(j) the disclosure of the information would be likely to prejudice the conduct of any research undertaken by a public authority or any person;

(k) the information is obtained—

- (i) from a third party and to communicate it would constitute an actionable breach of confidence;
- (ii) in confidence from a third party and it contains a trade secret or to communicate it would, or would be likely to, seriously prejudice the commercial or financial interests of the third party; or
- (iii) in confidence from another State or international organization, and to communicate it would, or would likely to, seriously prejudice relations with that State or international organization;

(l) the disclosure of the information would breach one or more of the following:

- (i) an agreement or contract;
- (ii) a duty of confidentiality in equity; or
- (iii) a court or tribunal order;

(m) the information is relating to—

- (i) legal professional privilege or solicitor-client privilege;
- (ii) confidentiality of doctor and patient or privilege of the medical profession;
- (iii) the administration of justice of courts including any judicial proceedings, whether civil or criminal, mediation proceedings and pre-trial case management and an inquest or inquiry into a death;
- (iv) any proceedings before a tribunal or a board;

- (n) the information would disclose matter in the nature of opinion, advice or recommendation prepared by an officer of the public authority or Minister, or consultation or deliberation that has taken place between officers of the public authority, Ministers, or an officer of the public authority and a Minister, in the course of, or for the purpose of, the deliberative processes involved in the functions of a public authority;
- (o) the information would involve disclosure of personal information of an individual, including a deceased individual;
- (p) the information would involve any unpublished broadcasting material, public communication material, media content, draft publication or strategic communication prepared by or for a public authority and intended for future publication, broadcast or public dissemination; or
- (q) the information would disclose the source of any information obtained in the course of making any programme or broadcast.

## PART V

### OMBUDSMAN

#### **External review**

**13.** Any person who is aggrieved with the decision of the head of public authority under section 11 may submit the decision for a review by the Ombudsman.

#### **Decision of Ombudsman**

**14.** (1) Subject to section 9, the Ombudsman may affirm, vary or set aside the decision of the head of public authority after reviewing the decision.

(2) Any decision made by the Ombudsman under subsection (1) shall be communicated in writing to the aggrieved person.

**Non-application**

**15.** The investigation powers conferred upon the Ombudsman under ... of the Ombudsman Act 20... [*Act ...*] is not applicable to this Part.

**Judicial review**

**16.** A person aggrieved by the decision of the Ombudsman or the public authority under this Act may apply to the High Court for judicial review.

**Obligation of secrecy**

**17.** (1) Except for any of the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law—

(a) no member, officer or staff of the Ombudsman, whether during or after his tenure of office or employment, shall disclose any information or document obtained by him in the course of his employment under this Act; and

(b) no other person who has by any means access to any information or documents relating to information under this Act shall disclose such information or document.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand ringgit or to both.

**PART VI****GENERAL****Offences**

**18.** (1) Any person who—

(a) uses any information obtained under this Act that is contrary to the purpose of such request;

- (b) gives false information in the request made under section 5;
- (c) unlawfully destroys, erases, alters, damages, conceals, blocks or falsify any information within the control of the public authority with the intention of unlawfully preventing disclosure of any information or any part thereof or obstructing the request for access to any information,

commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

### **Prosecution**

**19.** No prosecution shall be instituted for an offence under this Act without the consent in writing of the Public Prosecutor.

### **Protection against action for defamation, etc.**

**20.** Unless it can be proven that the act, neglect or default was done or omitted in bad faith and without reasonable cause, no action for defamation, breach of confidence or infringement of copyright may be brought, instituted or maintained in any court against the public authority, or any officer or employee of the public authority, on account of or in respect of any act, neglect or default was done or omitted by him in the course of his duties under this Act—

- (a) as a result of allowing the request for access to information;  
or
- (b) in respect of any publication involved in the allowing of the request for access to information by the public authority against—
  - (i) any person who was the author of the document;  
or
  - (ii) any person as a result of that person having supplied the document or the information contained in it to the public authority.

**Publication of public information and proactive disclosure**

**21.** (1) Each public authority may publish, as frequently as may be necessary, the following information:

- (a) details of its organisational structure, including any entities under its purview;
- (b) description of its functions and powers;
- (c) general contact details and official working hours;
- (d) details of the services provided including relevant forms and standard operating procedures;
- (e) public complaints management system;
- (f) applicable law including regulations and guidelines;
- (g) general information and strategic plans of the agency;
- (h) the number of requests made under this Act and the number of requests allowed under this Act; and
- (i) contact details of the appointed officer responsible for matters relating to the request for access to information under this Act.

(2) For the purposes of subsection (1), the publication of information to the public may be made through websites, print media, digital media or any other form of information dissemination to the public as deemed appropriate by the public authority.

(3) The information published under subsection (1) shall not include any information that identifies or is capable of identifying, any person making the request or any other person.

**Construction of this Act**

**22.** Nothing in this Act shall be construed as fundamental liberties under Part II of the Federal Constitution.

**Power to make regulations**

**23.** (1) The Prime Minister may make regulations as may be necessary or expedient for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Prime Minister may make regulations for or in respect of all or of the following matters:

- (a) the procedure for request for access to information;
- (b) the forms to be used;
- (c) the procedure for internal review by public authority;
- (d) the procedure for external review by the Ombudsman.

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**EXPLANATORY STATEMENT**

This Bill (“the proposed Act”) is enacted pursuant to items 4(f) and 6 of the Federal List with the Ninth Schedule of the Federal Constitution, namely “ official secrets” and “the machinery of government including federal public authorities”.

The proposed Act seeks to establish a procedural mechanism to regulate requests by any person for access to information contained in any official document within the control of the public authorities.

The proposed Act provides that any person, who is a citizen of Malaysia aged eighteen and above, may request for access to information in accordance with its provisions. The proposed Act is purely procedural in nature and is intended solely to regulate the process for requesting, considering and determining applications for access to information.

The proposed Act is without prejudice to the operation of any written law governing the confidentiality or non-disclosure of information. Accordingly, information classified as an official secret under the Official Secrets Act 1972 [Act 88], and any official document, secret, confidential information or other information the disclosure of which is prohibited, restricted or otherwise protected under any written law, is excluded from the application of the proposed Act. In other words, the proposed Act preserves the primacy of existing secrecy statutes while making clear that the proposed legislation creates only a procedural mechanism for requesting access to information, not an overriding substantive right of disclosure.

The proposed Act provides a two-tier internal review mechanism whereby a person may seek a review of a decision made by an appointed officer of the public authority in accordance with the procedure prescribed under the proposed Act. The jurisdiction and powers of the head of public authority under the internal review process are subject to the same limitations, exemptions and exclusions applicable to requests for access to information under the proposed Act and no head of public authority may require or authorise the disclosure of information excluded from the operation of the proposed Act.

The proposed Act also provides for a further external review by the Ombudsman. Although the Ombudsman is established as a body corporate under the Ombudsman Act 20... [Act ...], for the purposes of the proposed Act, it performs administrative functions (i.e. being a body under the purview of the Executive) and exercises only such jurisdiction and powers as are expressly conferred by the proposed Act. The Ombudsman has no jurisdiction to review, require the disclosure of, or make any determination in respect of information that is excluded from the operation of the proposed Act or the disclosure of which is prohibited, restricted or otherwise protected under the Official Secrets Act 1972 or any other written law.

In addition, an aggrieved person may apply for judicial review against the decision of the Ombudsman or the public authority. Besides that, nothing in the proposed Act shall be construed as creating, conferring or recognising a substantive right to information as a fundamental liberty under the Federal Constitution nor shall it be construed as recognising or conferring any right relating to the freedom of the press or the media.

Therefore, the proposed Act provides for the procedure for making requests for access to information, the duties of public authorities in dealing with such requests, the categories of information excluded from disclosure, the two-tier internal review mechanism, the external review by the Ombudsman, and to provide for related matters.

## PART I

2. Part I of the proposed Act contains preliminary matters.
3. *Clause 1* contains the short title of the proposed Act and provision on the commencement of the proposed Act.
4. *Clause 2* seeks to provide for the application of the proposed Act.

*Subclause 2(1)* seeks to provide that the proposed Act shall apply to the Federal Government.

*Subclause 2(2)* seeks to provide that the proposed Act provides for the procedure to request for access to information subject to exempted information under this proposed Act.

*Subclause 2(3)* seeks to provide that the proposed Act shall be read together with the provisions of other written laws that allow access to official documents, and the provisions of the proposed Act shall be in addition to, and not in derogation of, the provisions of the relevant written laws.

5. *Clause 3* contains the definitions of certain words and expressions used in the proposed Act, among others, the definition of “information” and “public authority”.

In the proposed Act, the definition of “information” shall be construed to be within the ambit of *clause 9* only which excludes, among others, all information classified as official secrets under the Official Secrets Act 1972, and any official document, secret, confidential information or other information the disclosure of which is prohibited, restricted or otherwise protected under any written law.

On the other hand, the definition of “public authority” is intended to identify the Federal entities to which the proposed Act applies. *Paragraph (a)* includes the Federal Government, encompassing the Ministries, departments and offices forming part of the Federal administration.

*Paragraph (b)* includes the Parliamentary Service established under the Parliamentary Service Act 2025 [Act 869]. Although the Parliamentary Service operates independently of the Executive, it performs public functions and is therefore brought within the scope of the proposed Act.

*Paragraph (c)* includes statutory bodies of the Federal Government established under an Act of Parliament. This ensures that Federal statutory authorities created by written law and exercising statutory powers or performing public functions are subject to the proposed Act.

*Paragraph (d)* includes the local authorities of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya. As local government within the Federal Territories falls under the legislative and administrative responsibility of the Federal Government, these local authorities are included within the definition of “public authority”.

The definition confines the application of the proposed Act to Federal public authorities and does not extend to the Governments of the States, State statutory bodies or local authorities established by a written law.

## PART II

6. Part II of the proposed Act contains provision relating to appointed officer.

7. *Clause 4* seeks to empower the responsible Minister to appoint one or more officers within the public authority as an appointed officer for the purpose of processing requests for access to information under the proposed Act.

## PART III

8. Part III of the proposed Act contains provisions relating to the procedure to request for access to information under the proposed Act.

9. *Clause 5* seeks to provide for the procedures and the requirements for making a request for access to information under the control of a public authority.

*Subclause 5(1)* seeks to provide that a Malaysian citizen of eighteen years old and above may request for access to information.

*Subclause 5(2)* seeks to provide that a request on behalf of a third party may be made if the person is the legal guardian of the third party, the legal heir or the legal administrator of a deceased party.

*Subclause 5(3)* seeks to outline the mandatory particulars that must be specified in the written request.

*Subclause 5(4)* seeks to provide that every request shall be accompanied by payment of fee as the Yang di-Pertuan Agong may prescribed by order.

*Subclause 5(5)* seeks to impose a duty on the appointed officer to provide a written acknowledgment to the person upon receiving a request.

10. *Clause 6* seeks to provide for the purposes of request for access to information under the proposed Act. The purposes are for verifying and making corrections to personal information or personal information of a third party mentioned under *subclause 5(2)*, for research or educational purposes conducted for non-commercial purpose by any student, apprentice, trainee or a researcher or resident scholar in a higher educational institution or research institution in Malaysia, for the reporting, publication or dissemination of information by a media practitioner to the public and any other purposes not contrary to any written law where that person has proper and tangible interest and has been prejudiced by the act of the public authority.

11. *Clause 7* seeks to empower the appointed officer to require the person to provide reasonable proof of identity and citizenship, or any other information or document relating to the request in the manner as may be determined by the public authority.

12. *Clause 8* seeks to provide for the timeline and procedures for a public authority to determine a request for access to information.

*Subclause 8(1)* seeks to provide that the public authority shall make a decision to either allow or reject a request and shall communicate the decision to the person within fifteen working days after receiving the request.

*Subclause 8(2)* seeks to provide that where a request for access to information is allowed under *subclause (1)*, the information must be provided to the person within fourteen working days from the date of the decision.

*Subclause 8(3)* seeks to provide for the procedures where a request for access to information concerns the life or liberty of an individual. Under this *subclause*, the public authority is required to make a decision to either allow or reject the request within forty-eight hours. If the request is allowed, the information must be provided to the person as soon as practicable within fourteen working days from the date of the decision.

*Subclause 8(4)* seeks to empower the public authority to extend the period to provide the information under *subclause 8(2)* and *paragraph 8(3)(b)* by not more than twenty-one working days or any other reasonable period where the request involves large volume of documents or the documents are located in a different state, city or district.

*Subclause 8(5)* seeks to require the appointed officer to notify the person of the extension period made under *subclause 8(4)* and the reason thereof within fourteen working days from the expiry of the period specified under *subclause 8(2)* and *paragraph 8(3)(b)*.

13. *Clause 9* seeks to provide for the grounds and procedures for the public authority to refuse a request for access to information under the proposed Act.

*Subclause 9(1)* seeks to empower the public authority to refuse a request based on specific reasons such as the requested information is exempted under Part IV, the requested information is publicly available, the requested information does not exist or is not within the control of the public authority, the requested information contains personal information of a third party, the request is vexatious or unreasonable, or the request has been made and rejected within the previous six months without reasonable explanation.

*Subclause 9(2)* seeks to require the appointed officer to notify the person of the refusal in writing within the period provided under *subclause 8(1)* or *paragraph 8(3)(a)*, as the case may be. This *subclause* also provides that the written notice must state the reason of the refusal of the request and inform the person of the procedures to appeal to the head of public authority against the refusal.

*Subclause 9(3)* seeks to provide that *paragraph (1)(e)* does not apply if the person has obtained the written consent of the third party, or if the person is the legal guardian or heir of the third party, or the person is the legal administrator of a deceased third party.

14. *Clause 10* seeks to empower the public authority to defer access to information if the requested information has been submitted for and is pending publication for any proceedings in Parliament or released to the media. This *clause* also requires the public authority to inform the person of the reasons for the deferment and indicate the period for which the deferment will operate as far as practicable.

15. *Clause 11* seeks to provide for the procedures for an appeal against the decision of the public authority to the head of public authority.

*Subclause 11(1)* seeks to provide that any person aggrieved by the decision of the public authority may appeal in writing to the head of public authority within fourteen working days after the date of receipt of the notice of refusal under *subclause 9(2)*.

*Subclause 11(2)* seeks to empower the head of public authority, upon considering the appeal, to either affirm, vary or set aside the decision of the public authority.

*Subclause 11(3)* seeks to require that any decision made by the head of public authority shall be communicated in writing to the aggrieved person.

#### PART IV

16. Part IV of the proposed Act contains provisions relating to information that is exempted from disclosure.

17. *Clause 12* seeks to list out the types of information that the public authority is not required to disclose. The public authority may refuse to release information if doing so could harm law enforcement, endanger a person's safety, reveal confidential or personal information, damage the financial interests of a government body, or breach a legal obligation. These exemptions exist to protect the public interest, individual privacy and the proper functioning of the public authority, which includes:

- (a) *paragraph (a)*: information classified as an official secret under the Official Secret Act 1972, and any official document, secret, confidential information or other information the disclosure of which is prohibited, restricted or otherwise protected under any written laws;
- (b) *paragraphs (b) to (e)*: information relating to law enforcement, criminal investigations, the identity of confidential sources, witness protection programmes, and investigative or intelligence gathering methodologies;
- (c) *paragraph (f)*: information that would prejudice the assessment or collection of taxes, duties, or penalties;
- (d) *paragraph (g)*: information that poses a threat to the life, safety, health, or welfare of any individual;
- (e) *paragraphs (h) to (j)*: information involving trade secrets, commercial, financial, economic, or property interests of a public authority, as well as ongoing research;
- (f) *paragraphs (k) and (l)*: information obtained in confidence from third parties, other States, or international organizations, or where disclosure would constitute a breach of contract, equity, or a court order;

- (g) *paragraph (m)*: information protected by legal professional privilege, medical confidentiality, or information relating to the administration of justice and active proceedings before courts, tribunals, or boards;
- (h) *paragraph (n)*: information concerning the internal deliberative processes, opinions, advice, or recommendations prepared by officers or Ministers;
- (i) *paragraph (o)*: personal information of an individual, including a deceased individual, to safeguard the right to privacy; and
- (j) *paragraphs (p) and (q)*: unpublished broadcasting, media, or communication materials intended for future publication, and the protection of journalistic or broadcasting sources.

## PART V

18. Part V of the proposed Act contains provision relating to Ombudsman.

19. *Clause 13* seeks to provide that the aggrieved person of the decision of internal review by the head of public authority under *clause 11* may submit such decision for an external review to the Ombudsman.

20. *Clause 14* seeks to provide that the Ombudsman may affirm, vary or set aside the decision made by the head of public authority during the external review process which such decision shall only be confined to the information that is governed under the proposed Act.

The Ombudsman is prohibited to exercise such external review function in the case where the head of public authority during the internal review had refuse to consider the appeal due to the grounds listed under *clause 9*, such as the information requested is the information that is classified as an official secret under the Official Secrets Act 1972, or any official document, secret, confidential information or other information the disclosure of which is prohibited, restricted or otherwise protected under any written law.

*Subclause (2)* seeks to provide for the decision by Ombudsman shall be communicated in writing to the aggrieved person.

21. *Clause 15* seeks to provide that the investigation power under ... of the Ombudsman Act 20... by the Ombudsman shall not be applied when exercising its function provided under Part V of the proposed Act.

22. *Clause 16* seeks to provide for the right to the aggrieved person or the public authority under the proposed Act to apply for a judicial review against the Ombudsman to the High Court.

23. *Clause 17* seeks to deal with the obligation of secrecy in relation to any disclosure of information or document obtained or accessed under the proposed Act. This *clause* also seeks to provide for the prohibition to any member, officer or staff of the Ombudsman from disclosing any information

obtained in the course of their employment or any person who has by any means access to any information or documents relating to information under this Act, unless the disclosure is done for the purposes of legal proceedings under any written law, which in the failure to comply with such prohibition is an offence under the proposed Act.

## PART VI

24. Part VI of the proposed Act contains the general provisions.

25. *Clause 18* seeks to criminalize certain acts such as using information obtained under the Act that is contrary to the purpose of the request, providing false information when making a request, and unlawfully destroying, altering, or concealing information to prevent its disclosure. This *clause* also provides for the penalties on conviction for such offences.

26. *Clause 19* seeks to provide that no prosecution for an offence under the Act shall be instituted without the written consent of the Public Prosecutor.

27. *Clause 20* seeks to provide for the protection against legal actions such as defamation, breach of confidence, or infringement of copyright to the public authority, its officers, or employees for any act, neglect, or default done or omitted in good faith and with reasonable cause in the course of their duties under this proposed Act. This *clause* further protects the author or supplier of the document to the public authority from similar actions arising from the release of the information.

28. *Clause 21* seeks to encourage public authorities to proactively publish and disseminate essential administrative, structural and general information to the public through various media channels including websites and digital media.

29. *Clause 22* seeks to clarify the construction of the proposed Act by expressly providing that nothing within the proposed Act shall be construed or interpreted as creating or constituting fundamental liberties under Part II of the Federal Constitution.

This *clause* is a two-pronged preventive clause. Firstly, this *clause* prevents the proposed Act from being elevated to the status of a guaranteed constitutional right. By preserving constitutional boundaries, this *clause* acts as a legal firewall by expressly indicating to the judiciary that this proposed Act regulates a specific activity but does not expand or alter the guaranteed constitutional fundamental liberties framework of Malaysia.

Secondly, this *clause* prevents legal creep whereby when this proposed Act grants a citizen a specific permission or procedural right, one might try to argue that this legislative permission is actually a permanent and untouchable fundamental liberty. This *clause* stops that argument before it starts.

30. *Clause 23* seeks to empower the Prime Minister to make regulations necessary or expedient for carrying into effect the provisions of the proposed Act, including prescribing procedures for information requests, forms, and internal or external review processes.

31. At the time this proposed Act is made, the bill regarding Ombudsman has not yet been introduced or moved in Parliament. Therefore, all the provisions in relation to the Ombudsman in this proposed Act are deferred pending the bill regarding Ombudsman is tabled in Parliament.

*FINANCIAL IMPLICATIONS*

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

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