CSO MODEL

RIGHT TO INFORMATION ACT 202X

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement.
2. Principal object of Act.
3. Right to information
4. Interpretation.
5. Definition of Government corporation.
6. Prevailing law.

PART II

ESTABLISHMENT, FUNCTIONS, AND POWERS OF THE INFORMATION COMMISSION

7. Establishment of the Commission.
8. Constitution of the Commission.
9. Term of office.
10. Vacation of office.
11. Grounds for removal.
12. Remuneration.
13. Functions of the Commission.
14. Powers of the Commission.

PART III

STAFF OF THE COMMISSION AND INFORMATION OFFICERS

15. Appointment of Secretary and staff of the Commission.
16. Appointment of Information Officers.
17. Functions of Information Officers.

PART IV
DUTIES OF PUBLIC BODIES

18. Information publication scheme.
19. Information to be published.
20. Maintenance of records.
21. Creation and maintenance of request and disclosure log
22. Requirements for Government contracts.
23. Other duties of public bodies.
24. Publication of exempt documents.

PART V
EXEMPT INFORMATION

25. Scope and effect of exempt information.
26. Information affecting national security or defence.
27. Information relating to international relations and economic interests of the Federation.
28. Information relating to operations of public bodies.
29. Information affecting effective law enforcement and public safety.
30. Trade secrets and commercial, financial, and property interests.
31. Information relating to research.
32. Personal privacy.
33. Information relating to legal professional privilege.

PART VI
PUBLIC INTEREST

34. Test of public interest.
35. Factors favouring disclosure.
36. Irrelevant factors.

PART VII
REQUESTS FOR INFORMATION

37. Request for information.
38. Duties in processing a request for information.
39. Refusal of request for information.
40. Severance.
41. Consultation with third parties.
42. Internal review.
43. Extension of time.
44. Reuse of information.

PART VIII
APPEALS TO THE INFORMATION COMMISSION

45. Procedure for appeal to the Commission.
46. Commencement of inquiry into appeal.
47. Powers of the Commission relating to investigation.
48. Evidence before the Commission.
49. Conduct of hearings *inter partes*.
50. Decision of the Commission.

PART IX
OFFENCES

51. Threats against applicants, appellants, or witnesses.
52. Obstructions

PART X
GENERAL

53. Funds.
54. Fees.
55. Application of Act 240.
56. Annual reports.
57. Protection of Commissioners, staff of the Commission, Information Officers and other officials.
58. Application of Act 198.
59. Protection of whistleblowers.
60. Public servant.
61. Vexatious requests for information.
62. Institution and conduct of prosecution.
63. Guidelines, standards, and practice notes.
64. Regulations.

PART XI
EXTENSION OF APPLICATION TO STATES AND ESTABLISHMENT OF STATE INFORMATION COMMISSIONS

65. Extension of application of this Act to a Government of a State, etc.
66. State Information Commissions

A BILL
intituled

An Act to create a right to access information held by any public bodies subject to specific and limited exceptions consistent with the public interest, and a duty for the Government of Malaysia to promote and protect this right; to impose an obligation for proactive disclosure of information of public interest by public bodies, to establish the Information Commission as an independent mechanism to protect and promote the right to information, and for the review of decisions as to the disclosure of information held by a public body; and to provide for matters connected therewith or incidental thereto.

RECOGNIZING the right to information as essential to participatory democracy, transparency, accountability, and freedom of expression under Article 10 of the Federal Constitution and Article 19 of the Universal Declaration of Human Rights, thereby promoting a society in which the people of Malaysia would be able to fully participate in public life through combating corruption, promoting accountability and good governance.

WHEREAS it is also expedient for the purpose of ensuring uniformity of law and policy to make a law for a framework and mechanism for the protection and promotion of the right to information:

NOW, THEREFORE, pursuant to Clause 1(b) of Article 76 of the Federal Constitution, **BE IT ENACTED** by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I
PRELIMINARY

1. Short title and commencement.

(1) This Act may be cited as the Right to Information Act 202X.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different parts or provisions of this Act, provided that the whole Act shall come into operation no later than one year after it has come into force.

2. Principal object of Act.

(1) The principal object of this Act is to create a qualified right to information, by–

(a) facilitating and promoting the right of public access to information held by any public body, promptly, by:

(i) requiring the public body to publish such information; and

(ii) creating a right to access information by request;

(b) increasing recognition that information held by any public body is a national resource, and is to be managed for public purposes;

(c) ensuring that qualifications and exemptions to the right to access information held by the Government are specific, limited, necessary, and proportionate; and

(d) promoting Malaysia's representative democracy by:

(i) increasing public participation in Government processes, with a view to promoting transparency and better-informed decision-making by Government;

(ii) combatting corruption; and

(iii) increasing scrutiny and review of the Government's activities.

(2) The provisions of this Act and, in particular, the exceptions, shall be interpreted so as to give effect to the reasonable meaning of their terms which best gives effect to the principal object of this Act set out in subsection (1).

(3) For the avoidance of doubt, it is hereby declared that nothing in this Act shall be construed as prohibiting, limiting, or discouraging any public body from publishing, disclosing, or granting access to any information—including exempt information or exempt matter—where it has the lawful authority to do so outside the scope of this Act, provided such action is consistent with the principal object and provisions of this Act.

3. Right to information.

Every person has the right to access information held by public bodies, subject to the provisions of this Act.

4. Interpretation.

In this Act, unless the context otherwise requires –

"appeal" means an application lodged pursuant to section 45 before the Commission;

"appellant" means any party who has made an appeal within the time limits set out for that in this Act;

"applicant" means any person who has made a request for information to a public body;

"Commission" means the independent Information Commission, as the case may be, as the oversight body, established under section 7;

"contracted entity" means any party to a Government contract that is not a public body;

"disclose" means to make information available directly to an applicant;

"exempt" means exempted from the operation of this Act, "exempt information" means any information which falls under section 25, and "exempt matter" means any element or part of any information that causes it to be exempt information;

"Government contract" means a contract where–

(a) a public body is, or was, a party to the contract;
(b) a contracted entity is, or was, a party to the contract; and
(c) the contracted entity is, or was, responsible for the provision of goods or services under the contract;

"Information Officer" means an officer appointed by each public body under section 16;

"information" refers to either a "document", as defined under section 3 of the Evidence Act 1950 [*Act 56*], or anything which communicates meaning and which is held in a recorded format, regardless of that format or its medium, source, date of creation, or official status, despite its classification under any other piece of legislation, without regard to who created the information;

"Minister" means the Minister charged with the responsibility for legal affairs;

"person" means any natural or legal person, regardless of their citizenship, nationality, or locality, or the manner of incorporation, as the case may be;

"personal information" means information that is related to any natural person, whether living or deceased person which allows for the identification of that person, whether on its own or in connection with other information;

"preliminary decision" means a response to a request for information made at first instance by a public body under Part VII;

"prescribed authority" means–

(a) any university or university college established under the Universities and University Colleges Act 1971 [*Act 30*] and Universiti Teknologi MARA Act 1976 [*Act 173*];
(b) a Government corporation as defined under section 5;
(c) any body which receives significant public funding or undertakes public functions; and
(d) any other entity prescribed by the Commission pursuant to section 64;

Due to the complex structure of government-linked corporations and state-owned enterprise in Malaysia, it is difficult to conceptualise a comprehensive definition which would account for every one of these entities for the purposes of this Act. Therefore, even though a definition is included under section 4 below, the Commission should be empowered to add, amend, or remove any such entity from the application of this Act as it deems appropriate to fill the gaps.

"public authority", with reference to Article 160 of the Federal Constitution and subject to section 65, means–

(a) Yang di-Pertuan Agong, and the Ruler or Yang di-Pertua Negeri of a State;
(b) the Federal Government, including any ministry, agency, or department thereunder;

(c) the Government of a State, including the Executive Council or any agency or department thereunder;
(d) a local authority as defined under section 2 of the Local Government Act 1976 [*Act 171*];
(e) a statutory body, including any commission or office established under the Federal Constitution;
(f) the Parliament and any Legislative Assembly of the States;
(g) any court or tribunal established under federal law or state; and
(h) any officer or authority appointed by or owned or controlled by any of those persons, courts, tribunals or authorities.

"public body" means any public authority and prescribed authority;

"public office" has the meaning assigned to it under section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*];

"publish" means to make information available in a form generally accessible to members of the public and includes print and electronic forms of dissemination, as far as practicable;

"request for information" means an application for the disclosure of any information made under section 37;

"statutory body" means any body corporate, irrespective of the name by which it is known, that is created pursuant to the provisions of federal or state law, but does not include a local authority or a body corporate incorporated under the Companies Act 2016 [*Act 777*];

"subcontractor" means any party to a contract with a contracted entity for the fulfilment, whether full or partial, of the contracted entity's obligations under a federal contract.

5. Definition of Government corporation.

(1) For the purposes of this Act, a Government corporation or a Government-linked entity means a body corporate incorporated under the Trustees (Incorporation) Act 1952 [*Act 258*] or the Companies Act 2016 [*Act 777*] that the Federal Government or a Government of a State controls.

(2) The Federal Government or a Government of a State controls a corporation if it–
(a) controls the composition of the corporation's board;
(b) is in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the corporation; or
(c) holds more than one-half of the issued share capital of the company, excluding any part of such issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital.

(3) Without limiting the generality of subsection 2(a), the Federal Government or a Government of a State shall be taken to control the composition of a corporation's board if it can appoint or remove all, or the majority of, the directors of the corporation.

(4) For the purposes of subsection (3), the Federal Government or a Government of a State shall be taken to have power to appoint a person as a director of a company if –

(a) the person cannot be appointed as a director of the corporation without the exercise by the Federal Government or the Government of a State of such a power in the person's favour; or

(b) the person's appointment as a director of the company follows necessarily from the person being a member of the administration of the Federal Government or the Government of a State, or a statutory office holder.

(5) The application of Part IV to a Government corporation shall extend to any subsidiary corporation it may have.

(6) For the purposes of subsection (5), "subsidiary" has the meaning assigned to it under section 4 of the Companies Act 2016 [*Act 777*].

6. Prevailing law.

(1) The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other written law relating to the release of information in the possession, custody, and control of public bodies.

(2) Notwithstanding subsection (1), where any provision of another law imposes a restriction on access to, or disclosure of, information held by a public body, the provisions of this Act shall prevail, and such other provision shall, to the extent of the restriction, be of no effect.

PART II
ESTABLISHMENT, FUNCTIONS, AND POWERS OF THE INFORMATION COMMISSION

7. Establishment of the Commission.

(1) The Information Commission is established to oversee the implementation of the provisions of this Act and uphold the principal object of this Act, including to promote access to information, and to resolve disputes.

(2) The Commission shall be a body corporate having perpetual succession and a common seal, which may sue and be sued in its name and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or interest therein vested in the Commission upon such terms as it deems fit.

(3) The Commission shall report to and be accountable to Parliament for the performance of its functions and powers under this Act.

8. Constitution of the Commissions.

(1) The Commission shall consist of not more than seven (7) Commissioners, respectively, of whom there shall be a Chair and a Deputy Chair elected by the Commissioners themselves.

(2) The Commissioners shall be appointed from amongst citizens of Malaysia who have extensive knowledge or practical experience on the right to information, law or human rights matters, provided that representation of women commissioners shall not be less than three.

(3) The Commissioners shall be appointed from a list of candidates selected in accordance with the procedure under subsection (4) by a resolution passed by the Dewan Rakyat.

(4) For the purpose of subsections (2) and (3), the Parliament shall be responsible for the general conduct and administration of the following procedures before any vote is held on the appointment of any Commissioner–

(a) an open call for applications shall be published with clear criteria for selection specified therein;

(b) candidates shall be selected from these applications with due regard to the promotion of equal opportunity, merit, competence and diversity, subject to subsection (2); and

(c) consultation shall be had with the Bar Council, the Sabah Law Society, the Advocates Association of Sarawak, the Malaysian Media Council, and civil society organisations working on freedom of expression or other human rights for their nomination of candidates, and their recommendations shall be a relevant consideration in selecting the final list of candidates.

(5) Any person who holds public office, whether appointed or elected, who is actively involved in politics or who is registered with any political party shall not be appointed as a Commissioner.

According to Article 62 of the Federal Constitution, parliamentary procedure shall generally be regulated by each House of Parliament itself (through the Standing Orders), ***subject to federal law****. Thus, Parliament can legislate through Acts of Parliament to provide for parliamentary procedures. An example of this is the Houses of Parliament (Privileges and Powers) Act 1952 [Act 347], which provides for various matters such as the principle of freedom of speech and debate in Parliamentary proceedings, the process for Parliament to order attendance of witnesses and production of documents, and for the examination of witnesses.*

The idea here is for a ***permanent Select Committee*** *to be established for the purpose of overseeing the administration of the RTI Act, including matters such as the appointment, removal, and remuneration of Commissioners. This Committee shall take on a similar role as the existing Public Accounts Committee, and ought to be established under the Standing Orders of the Dewan Rakyat.*

9. Term of office.

(1) A Commissioner shall hold office for a period of five years and is eligible for reappointment once for another period of five years.

(2) A Commissioner may at any time resign their office by letter addressed to the Speaker of the Dewan Rakyat.

10. Vacation of office.

The office of a Commissioner shall become vacant–

(a) upon the death of the Commissioner;
(b) upon the resignation of the Commissioner under section 9(2);
(c) upon the expiration of their term of office; or
(d) upon the Commissioner being removed from office in accordance with section 11.

11. Grounds for removal.

(1) A Commissioner shall be removed from office by Parliament if –
   (a) the Commissioner is adjudged insolvent by a court of competent jurisdiction;
   (b) the Commissioner has been finally determined by a qualified medical practitioner to be of unsound mind, within the meaning of section 51 of the Mental Health Act 2001 [*Act 615*];
   (c) the Commissioner has been convicted of an offense, such that their integrity no longer commands the confidence of the general public;
   (d) the other Commissioners have voted to declare that the Commissioner has acted in contravention of this Act or has failed to carry out their functions as a Commissioner;
   (e) the Commissioner has absented themselves from three consecutive meetings of the Commission without justification;
   (f) the Commissioner has engaged in any paid office or employment outside their functions under this Act; or
   (g) the Commissioner falls foul of the prohibitions on being appointed set out in subsection 8(5).

(2) Parliament shall be responsible for the determination of whether a ground for removal has arisen, and shall establish clear mechanisms, if necessary, to investigate cases relating to the grounds under subsection (1), provide for opportunities for the Commissioner to make representations to the Parliament, and to remove the relevant Commissioner if satisfied that any such ground exists.

12. Remuneration.

(1) A Commissioner shall be paid such remuneration and allowances as determined by Parliament.

13. Functions of the Commission.

(1) In furtherance of the principal object of this Act, the functions of the Commission, as the case may be, shall be, in addition to any other functions set out in this Act–

(a) to determine appeals submitted to the Commission in accordance with Part VIII;

(b) to assist the Government in formulating new legislation or amending existing legislation where relevant to the right to information;

(c) to advise and support public bodies in relation to the effective implementation of this Act;

(d) to undertake and facilitate training and capacity building activities for officers of public bodies on the right to information and the effective implementation of this Act, including specific training with the National Archives Department to empower civil service personnel in the area of records management;

(e) to ensure and monitor on compliance by public bodies with their duties under this Act;

(f) To recommend administrative measures and reforms, whether of a general nature or directed at specific public bodies, including proposals to expand the scope of proactive publication and to establish records management standards, which may be adopted or enforced by the relevant authorities;to undertake or direct research deemed necessary or appropriate for the effective implementation of, or full attainment of, the principal object of this Act;

(g) to promote awareness of and education in relation to the right to information within public bodies and among members of the public, with particular consideration for disadvantaged or minority groups and in consultation and collaboration with civil society organisations and interest groups; and

(h) to determine and manage procedures for the declaration of vexatious requests for information under this Act.

14. Powers of the Commission.

(1) In the performance of its functions under this Act, the Commission shall have power to do all things expedient or reasonably necessary for, or incidental to, the performance of its functions.

(2) Without prejudice to the generality of subsection (1), the Commission–

(a) shall determine any appeals against a preliminary decision submitted to the Commission in accordance with Part VIII;

(b) may summon any person to provide any explanation or information, including under oath, or to produce any document or other thing in their possession, which the Commission may require;

(c) shall have access to all information held by any public body, notwithstanding the provisions of any other written law;

(d) may visit and inspect any premise of a public body in the conduct of its functions without any requirement for early notice to be given;

(e) admit, notwithstanding any of the provisions of the Evidence Act 1950 [*Act 56*], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings;

(f) may order the disclosure of any information by a public body subject to terms and conditions the Commission deems fit;

(g) may refer any case where evidence of improper activity is disclosed in the course of investigations to the relevant authorities;

(h) may advise the Government and any public body on any matter relating to the effective implementation of this Act, including legislation and administrative measures and policies;

(i) may refer to or consult with external persons or bodies for the effective discharge of its functions, including by engaging such persons or bodies as consultants or to perform such services as it deems appropriate and on such terms and conditions it deems fit; and

(j) may prescribe fees payable under this Act, with due consideration of the need for accessibility.

(3) For the purpose of subsection 2(f), "improper activity" means any activity which, if proved, would constitute an illegal act, a criminal offence or a disciplinary offence.

PART III
STAFF OF THE COMMISSION AND INFORMATION OFFICERS

15. Appointment of Secretary and staff of the Commission.

(1) The Commission shall appoint a Secretary to the Commission.

(2) The Commission may appoint such other employees, officers, and servants as may be necessary to assist the Commission in the discharge of its functions under this Act.

(3) The Commission may delegate to any officer referred to in subsection (2) any of its powers, and the officer to whom such powers are delegated may exercise those powers subject to the direction of the Commission, and provided that the officer does not further delegate such powers.

16. Appointment of Information Officers.

(1) Each public body shall appoint such number of Information Officers as may be needed to enable it to discharge its obligations under this Act.

(2) Subject to subsection (3), every Information Officer shall be subject to the direction, command, control, and supervision of the public body in which they are placed, and shall exercise their powers, perform their functions, and discharge their duties in compliance with such direction or supervision.

(3) In the performance of their official duties, every Information Officer shall act in a manner that upholds and facilitates the principal object of this Act and comply with

any guidelines, standards, and practice notes issued by the Commission pursuant to section 63.

17. Functions of Information Officers.

The functions of Information Officers are as follows–

(a) to receive requests for information on behalf of the public body in which they are placed and assist individuals seeking information to make requests for information;

(b) where a public body receives a request for information that it does not hold but which is held by another public body, to promptly transfer the request to the appropriate public body and inform the applicant of the transfer;

(c) to process requests for information submitted to a public body, and to revert to the applicants within the prescribed time;

(d) to manage and oversee the public body's compliance with its duties and obligations under this Act and any guidelines, standards, and practice notes issued by the Commission under section 64;

(e) to prepare and submit annual reports to the Commission on the implementation of this Act by the public body; and

(f) to review the information management, publication, and record-keeping practices of the public body, and if necessary, to recommend measures for improvement.

PART IV
DUTIES OF PUBLIC BODIES

18. Information publication scheme.

(1) Every public body shall adopt, maintain, and periodically review and update an information publication scheme in accordance with this provision.

(2) The information publication scheme shall specify the following information:

(a) the information the public body proposes to publish for the purposes of this provision, in addition to the matters set out in section 19;

(b) the mode of publication of the information that is proposed to be published;

(c) subject to section 55, any fees payable for the purpose of accessing the information that is proposed to be published, and if so, the relevant scales of fees; and

(d) details on how the public body otherwise proposes to comply with this provision.

(3) The information publication scheme shall be transmitted to the Commission, which shall be responsible for–

(a) reviewing and granting approval to or rejecting the information publication scheme, in the latter case by providing reasons so as to enable the public body to adjust the proposed publication scheme with a view to having it approved;

(b) monitoring and ensuring that information published under the publication scheme, as far as practicable, made available in a manner that is understandable and easily accessible, including in digital and machine

readable format, to the general public, including persons with disabilities; and

(c) in consultation with the public body, periodically reviewing the operation of the information publication scheme at such time as may be prescribed by the Commission;

(4) The Commission may, when approving an information publication scheme, place an overall time limit on its approval or revoke approval previously granted, and in both cases require the public body to transmit another information publication scheme.

19. Information to be published.

(1) Every public body shall, if applicable, publish the following–

(a) details of the organisational structure, including subordinate entities thereunder;

(b) details of the functions of the public body, including its decision-making powers and other powers affecting members of the public;

(c) contact details and official working hours of the public body;

(d) information pertaining to the public body's financial status, including budgets, financial statements, and audit reports;

(e) details of services provided by the public body, including forms and standard operating procedures;

(f) details of procedures for public participation, and outcome reports related thereto;

(g) details of public complaints management systems;

(h) relevant legislative documents, including rules, regulations, and guidelines;

(i) bid advertisements, bid evaluation documents, procurement contracts, contract implementation reports, relevant audit reports and other procurement related documents;

(j) details and documents on policy and strategic plans of the public body, including the information publication scheme;

(k) details of requests made under this Act and information released in response to such requests;

(l) a list of the documents which are held by the public body;

(m) contact details for any information officer who may be contacted about access to the agency's information under this Act;

(n) annual reports, including any annual report prepared pursuant to federal law; and

(o) other information prescribed by the Commission.

(2) Public bodies shall have three years following the coming into force of this Act to meet their obligations under subsection (1).

(3) Subsection (1) does not apply to any exempt information.

20. Maintenance of records.

(1) Every public body shall maintain its information in a manner that facilitates the performance of its duties under this Act, in accordance with the principal object of this Act and subject to the guidelines, standards, and practice notes issued by the Commission pursuant to section 64.

(2) The Commission shall, after appropriate consultation with interested parties and the Director General appointed pursuant to section 5 of the National Archives Act 2003 *[Act 639]*, issue, review and update a set of standards for the keeping, management and disposal of records, as well as the transfer of records to the National Archives.

21. Creation and maintenance of request and disclosure log.

(1) Each public body shall create, maintain and update a publicly available request and disclosure log, wherein the following matters shall be published–

(a) all duly completed requests for information; and

(b) all information disclosed pursuant to a duly completed request for information.

(2) Any exempt information or matter contained within information published under subsection (1) shall be deleted or redacted prior to publication.

22. Requirements for Government contracts.

(1) This section shall apply to all Government contracts entered into by public bodies, without prejudice to any other law regulating contractual relations, and shall have effect notwithstanding any provision to the contrary in any agreement.

(2) Every public body that enters into, or has entered into, a contract with a contracted entity shall ensure, through appropriate contractual provisions, that the public body has the right to access any information held by the contracted entity relating to the performance of that contract, for the purpose of responding to requests made under this Act.

(3) The obligation under subsection (2) shall apply irrespective of whether the information concerned may ultimately be exempt from disclosure under this Act. In such cases, the public body shall obtain access to the information in order to assess its relevance and determine the applicability of any exemption provisions.

23. Other duties of public bodies.

(1) Public bodies shall ensure that their staff, including Information Officers, receive appropriate training on the right to information and the effective implementation of this Act.

(2) Each public body shall, in accordance with subsection 17(e), compile a comprehensive annual report providing an overview of the activities it has taken to implement this Act, including detailed statistical information about how requests for information have been processed, including details on:

(a) the number of requests for information received by the public body;

(b) the proportion of requests for information granted in full, in part, refused, or unprocessed;
(c) for requests for information refused, the exceptions relied upon for such refusals;
(d) the number of times extensions were claimed;
(e) the formats used to disclose information;
(f) efforts made in the area of proactive publication;
(g) the amount of fees collected from applicants;
(h) any challenges faced in implementing this Act; and
(i) any recommendations for reform of the Act or practices under it.

(3) The annual report referred to in subsection (2) shall be submitted to the Commission and also published through any medium, including the website of the public body.

24. Publication of exempt information.

(1) Every public body shall endeavour, as far as practicable, to publish any exempt information under Part V–
(a) once the demonstrable risk of the harms stipulated under sections 26 to 33 no longer arises; or
(b) after a period of ten (10) years from the date of creation of the information, unless the public body can show to the satisfaction of the Commission that a demonstrable risk of the harms stipulated under sections 26 to 33 still arises.

PART V
EXEMPT INFORMATION

25. Scope and effect of exempt information.

(1) Information shall be exempt for the purposes of this Act only if–
(a) the information falls within the exhaustive list of categories set out in this Part;
(b) there is a demonstrable risk that disclosure of the information would or would be likely to cause serious harm to one of the interests protected by sections 26 to 33; and
(c) on balance, the public interest from disclosure is outweighed by the harm from disclosure, as set out in Part VI.

(2) Sections 26 to 29 do not apply to information which is more than 10 years old, provided that the minister who is responsible for the information may, before the expiry of 10 years, extend the period of exemption of a document by issuing a certificate to the effect that it remains exempted for up to another 15 years.

26. Information affecting national security or defence.

(1) Information is exempt if disclosure of such information under this Act would or would be likely to cause substantial harm to the national security or defence of the Federation or any part thereof.

(2) For purposes of subsection (1), the following are deemed to be potentially sensitive categories of information, depending on all of the circumstances:
   (a) military tactics, strategies, exercises, or operations undertaken in preparation for hostilities or in connection with the detection, prevention, suppression, or curtailment of subversive or hostile activities;
   (b) intelligence or technology relating to the defence of the Federation or any part thereof, or to the detection, prevention, suppression, or curtailment of subversive or hostile activities;
   (c) methods of, and scientific or technical equipment for, the collection, assessment, or management of information referred to in subsections 2(a) and (b);
   (d) the quantities, characteristics, capabilities, vulnerabilities or deployment of anything designed, developed or produced for use as weaponry.

27. Information relating to international relations and economic interests of the Federation.

Information is exempt if disclosure of such information under this Act would or would be likely to cause substantial harm to the international relations of the Federation or any part thereof or the ability of the government to manage the economy, such as by setting interest or exchange rates.

28. Information relating to operations of public bodies.

(1) Information is exempt if such information is related to the operations of public bodies and disclosure of such information would or would be likely to cause substantial prejudice to–
   (a) the effective formulation or development of policies or projects by a public body;
   (b) deliberative processes within a public body, by inhibiting free and frank provision of advice or exchange of views therein; or
   (c) the effectiveness of procedures or methods for the conduct of tests, examinations, assessments, or audits by a public body.

(2) Subsection (1) shall not apply to any information which is factual or statistical in nature.

29. Information affecting effective law enforcement and public safety.

Information is exempt if disclosure of such information under this Act would or would be likely to–
(a) substantially prejudice or impede the detection, prevention, or investigation of a breach or possible breach of any law, or an instance of non-compliance or possible non-compliance with any law, or the enforcement or proper administration of any law;
(b) substantially prejudice or impede the assessment or collection of any tax, duty, or penalty;

(c) disclose, or enable the ascertainment of, the identity of any confidential source of information; or
(d) endanger the life or physical safety of any person or class of persons.

30. Trade secrets and commercial, financial, and property interests.
Information is exempt if disclosure of such information under this Act would or would be likely to–
(a) disclose trade secrets of a public body or any other party; or
(b) substantially damage any legitimate commercial, financial, or property interest of a public body or any other party.

31. Information relating to research.
Information is exempt if its disclosure under this Act would, or could reasonably be expected to, cause substantial harm to the integrity, confidentiality, or competitive position of ongoing or planned research being conducted by a public body or in collaboration with a public body, and where such harm would outweigh the public interest in disclosure.

32. Personal privacy.
(1) Information is exempt if disclosure of such information under this Act would or would be likely to result in the unreasonable invasion of personal privacy.
(2) Subsection (1) shall not apply where–
(a) the person to whom the personal information relates requests for, or consents to, the disclosure;
(b) ten years have elapsed since the registration of the death or presumed death of the person to whom the personal information relates;
(c) the personal information is already available from publicly accessible sources; or
(d) the personal information relates to the wellbeing of a child or a mentally disabled person, and the applicant is their parent, guardian, or any other party responsible for their care.
(3) For the purposes of this section, "child" means a person under the age of eighteen years. –

33. Information relating to legal professional privilege.
Information is exempt if it would be protected from disclosure under sections 126 and 129 of the Evidence Act 1950 [*Act 56*].

PART VI
PUBLIC INTEREST

34. The public interest override.

(1) Where, notwithstanding a demonstrable risk of harm to one or more of the interests which are protected by sections 26-33 from disclosing information, that information shall still be disclosed where there is a public interest in the disclosure of the information, unless that interest is clearly outweighed by the harm from disclosure.

(2) In addition to the provisions of this Part, any relevant material in any guidelines, standards, and practice notes issued by the Commission under section 63 for the purposes of this Part shall also be taken into consideration when determining whether disclosure of any information shall, on a balance, serve the public interest.

35. Factors favouring disclosure.

In deciding whether disclosure of any information shall, on a balance, serve the public interest, disclosure should be favoured where it would–

(a) promote the principal object of this Act;

(b) inform debate on a matter of public importance;

(c) promote effective oversight of public expenditure or other government action;

(d) facilitate public participation in government decision-making;

(e) support the protection and practice of sustainable environment; or

(f) reveal any criminal offence, illegality or contravention of domestic or international law, misconduct, corruption or other unethical conduct within a public body.

36. Irrelevant factors.

In deciding whether disclosure of any information shall, on a balance, serve the public interest, a decision-maker shall not take into account the following–

(a) disclosure may result in embarrassment to, or cause a loss in confidence of, any public body;

(b) any information disclosed may result in misinterpretation, misunderstanding, confusion or dissatisfaction; or

(c) the author of the information is, or was, of high seniority.

PART VII
REQUESTS FOR INFORMATION

37. Request for information.

(1) Any person (an applicant) is entitled to make a request for information to a public body in the manner as prescribed in this section.

(2) Upon receiving a request for information, a public body shall provide an acknowledgement of receipt of the request as soon as possible and in any case within three working days.

(3) An applicant, once they have duly made a request for information, subject to section 41, shall be entitled to be notified in writing as soon as possible and in any case within 10 working days of the response to the request, as follows:

(a) if the request is refused, in whole or in part, on the basis that the information is exempt, pursuant to section 39(1)(a), the notice shall indicate the provision(s) of this Act according to which the information is exempt, reasons why the information falls within the scope of that exception (i.e. would cause the harm sought to be avoided) and the right of the applicant to lodge an application for internal review to contest the decision;

(b) if the request is refused on the basis that the public body does not hold the information and does not know of another body which does hold it, pursuant to section 39(1)(b), the steps the body took to locate the information;

(c) if the request is refused on the basis that the information provided by the applicant was not sufficient to locate the information, pursuant to section 39(1)(c), that fact;

(d) if the request is refused, pursuant to section 39(1)(d), on the basis that the information has already been provided to the applicant, the details of when it was provided, and if on the basis that the information is already public, an indication of where the information may be found (such as a URL);

(e) if the request is refused on the basis that the information is due to be published within 60 days, pursuant to section 39(1)(e), that fact and an indication of where the information is likely to be able to be found after that period of time;

(f) if the request is refused on the basis that it is vexatious, pursuant to section 39(1)(f), that fact; and

(g) if the request is granted, in whole or in part, the format in which the information will be disclosed, any fee which is being charged and information about how to pay that fee.

(4) Where there is a need to consult with a third party in relation to the information, pursuant to section 41, the time limit set out in subsection (3) shall be extended to 20 working days.

(5) A request for information may be submitted to an Information Officer in person, by mail or electronically by duly completing the Form prescribed by the Commission for that purpose or otherwise by providing the information listed in subsection (6) without filling in the form.

(6) No information shall be required from an applicant in making a request for information other than–

(a) a description of the information requested, to the best of the applicant's knowledge:

Provided that an Information Officer shall take all reasonable efforts to assist the applicant to identify the scope and details of the information requested; and

(b) an address for purposes of contacting the applicant, including to provide the requested information.

(7) Applicants may also, if they wish, provide the following information in their request:
   (a) the format in which they wish to receive the information requested; and
   (b) any additional requests or requirements for the purpose of accessibility.

(8) Where an applicant wishes to make a request for information orally due to a disability or literacy, an Information Officer shall assist the applicant in completing the prescribed Form, read it to the applicant to allow for the applicant to make any corrections they may wish, sign and date the request and provide the applicant with a copy of it.

(9) When making a request for information under this Act, an applicant shall not be required to declare–
   (a) any reason or justification for making such request; or
   (b) any explanation as to what they intend to do with the information requested.

38. Duties in processing a request for information.

(1) Neither an Information Officer nor a public body shall impose any condition or restriction upon an applicant making a request for information or the disclosure of any information under this Act, except as provided for under this Act.

(2) Where a request indicates a preference as to the format in which the applicant wishes to receive the information, the Information Officer shall, subject to subsections (3) and (4), provide the information in accordance with that preference.

(3) A request may indicate the following preferences as to the format for receiving information:
   (a) a true copy of the record in permanent or other form;
   (b) an opportunity to inspect the record, where necessary using equipment normally available to the public authority which holds the information;
   (c) an opportunity to copy the record, using the applicant's own equipment;
   (d) a written transcript of the words contained in a record which is stored in a sound or visual format;
   (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.

(4) The Information Officer shall not be required to communicate information in the format indicated by the applicant where to do so would:
   (a) unreasonably interfere with the effective operation of the public body which holds the information; or
   (b) be detrimental to the preservation of the record.

(5) 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 applicant.

39. Refusal of request for information.

(1) A public body may refuse to disclose any information that is the subject of a request for information where–

(a) the public body considers that such information is exempt under section 25;

(b) such information does not exist or the public body is unable, after taking all reasonable steps, to identify or locate such information;

(c) the details provided by the applicant in the request for information are so vague so as to render the fulfilment of the request impracticable, but only after the relevant Information Officer has offered assistance to the applicant to help clarify the request;

(d) the information requested has already been disclosed to the applicant, or is already publicly available;

(e) publication of the information is required under law and is required to be completed no later than 40 working days after the public body receives the request for information; or

(f) the request for information has been declared vexatious under section 61.

(2) A public body may refuse to confirm or deny—

(a) the existence or non-existence of the information requested; or

(b) whether such information is in its possession, custody, or control; if it considers that doing so would, in itself, disclose information that is exempt under section 25.

40. Severance.

(1) Where only part of the information in a document is exempt, a public body shall, to the extent that this is reasonably possible, redact (sever) such exempt information and disclose the rest of the document to the applicant.

(2) Where a public body does delete or redact any exempt information or matter from any information that is disclosed pursuant to a request for information, the notice provided pursuant to section 37(2) shall, in addition to the information required there, indicate where deletions or redactions have been made.

41. Consultation with third parties.

(1) Where a request for information covers any information which has been provided in confidence by a third party or which engages the privacy of a third party, the public body that receives such request shall follow the procedure under this section.

(2) For the purposes of this Part, "third party" means—

(a) in relation to information described in subsection 32(1), any person or entity other than a public body; and

(b) in relation to personal information, any person other than the individual to whom the information relates.

(3) The public body shall take all reasonable steps to notify the third party in writing of the request for information within 5 working days of receiving the request.

(4) The third party shall be entitled to make a representation within 7 working days of receiving the notification referred to in subsection (3), stating whether they consent

to the disclosure of the information or stating their objections to the disclosure of the information.

(5) Where a third party objects to the disclosure of the information, the public body shall take their objections into account and, based on all of the information available to it, decide whether or not the information is exempt.

(6) Where, after considering any representations made by a third party, a public body decides to grant access to the requested information, in whole or in part, it shall notify the third party in writing, as soon as practicable—
(a) stating the grounds for the decision to disclose; and
(b) informing the third party of their right to apply for an internal review under section 42, or to seek judicial redress, if applicable.

(7) Unless otherwise directed by a reviewing authority or court, the public body shall defer disclosure for a reasonable period to allow the third party to exercise such rights.

42. Internal review.

(1) An applicant may apply for internal review of a preliminary decision, by duly completing the Form prescribed by the Commission for that purpose and submitting it to the public body which made such preliminary decision, where–
(a) the applicant is dissatisfied with the preliminary decision in any manner; or
(b) no preliminary decision is made, or no notification of a preliminary decision is received by the applicant, within the periods of time stipulated under this Act.

(2) An internal review of a preliminary decision shall be conducted by the relevant Head of Department within the public body that made the preliminary decision or any other officer of sufficient rank such that the review is a genuine reconsideration of the original matter, who is authorised in writing by the Head of Department to act on their behalf.

(3) Any application for internal review by an applicant or a third party shall be made–
(a) within 30 days after the applicant or third party receives notification of the preliminary decision; or
(b) where no notification of the preliminary decision is received by the expiration of the periods of time stipulated under this Act, within 30 days after the expiration of the relevant periods of time.

(4) Any officer who conducts an internal review under this section may make any decision that could have been made by the Information Officer who made the preliminary decision.

(5) An internal review shall be completed within 10 working days after an application for internal review is submitted to the public body.

43. Extension of time.

A public body may, by notice in writing to the applicant within the initial period, extend the periods of time referred to in subsections 39 (2) or (3) to the extent strictly necessary and for a period of no more than 20 working days where the request is for a large number of records, requires a search through a large number of records or requires consultation

with other parties, and where compliance within the initial period would not be reasonable or would unreasonably interfere with the activities of the concerned public body.

44. Reuse of information.

(1) Anyone who has received public information or a public document legally, whether pursuant to this Act or in any other way, has the right freely to reuse that information including by adapting, reproducing and/or sharing the information, free of copyright or database right restrictions, subject to this section.

(2) The Government may adopt reuse licences, in accordance with international standards in this area, which place certain conditions on the reuse of information and which public bodies may attach to information or public documents they disclose, whether proactively, in response to a request under this Act or otherwise.

PART VIII
APPEALS TO THE INFORMATION COMMISSION

45. Procedure for appeal to the Commission.

(1) Any applicant or third party who is aggrieved by a decision made in an internal review under section 42, or who has not received a response from a public body within the stipulated periods of time under this Act regarding a request for information or an internal review, may lodge an appeal with the Commission in the Form prescribed by the Commission for that purpose, in accordance with the procedure under this section.

(2) An appeal under this Part shall be lodged with the Commission within 40 working days from the date when the grounds for the appeal first arose:

Provided that the Commission may, upon an application by the appellant, extend the time specified in this subsection if it considers that there is a reasonable ground for doing so.

46. Commencement of inquiry into appeal.

The Commission shall, where an appeal is lodged under section 45, commence an inquiry into the matter promptly, and no later than 20 working days, and may conduct the inquiry in such manner as it considers appropriate, necessary, or expedient for the purpose of ascertaining the facts or law in order to determine the appeal, subject to the procedure set out in this Part.

47. Powers of the Commission relating to investigation.

(1) In carrying out an inquiry into an appeal, the Commission may conduct investigations on its own initiative.

(2) The Commission shall undertake such an investigation pursuant to powers granted under subsection 14 (2) (b), (c), (d), (e) and (f), and shall not be constrained by any written law.

48. Evidence before the Commission.

(1) A person who gives evidence before the Commission shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by them before such court.

(2) No person shall, in respect of any evidence written or oral given by that person to or before the Commission, be liable to any action or proceeding, civil or criminal in any court except a prosecution for giving false evidence or a prosecution under this Act.

(3) In an appeal before the Commission, the burden of proof shall lie on the public body against which the appeal has been brought.

49. Conduct of hearings *inter partes.*

(1) For the purposes of an inquiry, the Commission may hold a hearing *inter partes* if the Commission deems it necessary and expedient.

(2) Any party appearing at a hearing is entitled to be informed of the general scope and purpose of the hearing, unless the Commission is of the opinion that to disclose such information would seriously prejudice the investigation concerned.

(3) Where a third party is relevant to the appeal, such third party shall also be entitled to submit an application to be heard and to attend any hearing.

(4) The Commission shall act fairly and impartially as between parties, giving each party a reasonable opportunity of presenting their case and dealing with that of their opponent.

(5) Where an inquiry into an appeal is conducted without a hearing, all parties to the appeal shall be afforded an opportunity to make representations in writing.

(6) In all cases, whether or not a hearing is conducted, appellants shall not be required to have legal representation to present an appeal before the Commission.

50. Decision of the Commission.

(1) The Commission shall make its decision without delay and, where practicable, within 40 working days of the commencement of the inquiry by the Commission.

(2) The Commission may, if it deems necessary in the interests of justice, extend the period referred to in subsection (1) to complete the inquiry for an additional period of not more than 20 working days.

(3) The Commission shall in all appeals provide its reasons for its decisions, and in making any decision under this section, the Commission shall be guided by the principal object of this Act.

(4) The Commission, in making any decision under this section, may–

(a) confirm, reverse, or vary the preliminary decision, decision of the internal review, either wholly or in part;

(b) order the public body to fulfil the request for information in accordance with the stipulations of the Commission; and

(c) order the public body to grant monetary compensation to any party which has suffered material losses due to the manner in which its request was improperly dealt with.

(5) Any decision by the Commission referred to in subsection (4) shall be binding on all parties to the proceedings and shall be deemed to be an order of the High Court and be enforced accordingly by any party to the proceedings.

(6) Notwithstanding subsection (5), any party to the appeal before the Commission and who is aggrieved by the decision of the Commission may apply to the court for a judicial review of such decision in accordance with Order 53 of the Rules of Court 2012.

(7) A decision by the Commission under this section may include any of the following ancillary orders, which shall be binding–

(a) to make changes in the procedures and policies of the public body in respect of preservation, management, or publication of information;

(b) to take or refer to the relevant authority for disciplinary action against an officer, employee, servant or agent who has contravened any provision of this Act or otherwise illegitimately obstructed access to information;

(c) to appoint an Information Officer or additional Information Officers by the relevant authority;

(d) to publish information proactively;

(e) to prepare an annual report;

(f) to provide training and capacity-building to Information Officers within the public body; or

(g) any other orders deemed desirable and necessary to give effect to the principal object of the Act

(8) Where a decision by the Commission under this section includes any ancillary order as referred to in subsection (7), the public body shall, within 60 working days of receiving such order, transmit a written response to the Commission explaining, with sufficient detail, the measures taken by the public body to implement such order.

PART IX
OFFENCES

51. Threats against applicants, appellants, or witnesses.

A person who wilfully or recklessly obstructs the provision of information contrary to this Act or hinders or attempts to hinder any person from, or by threats or injury, deters or attempts to deter any person from–

(a) submitting a request for information or an application for internal review;

(b) submitting an appeal against a preliminary decision; or

(c) giving evidence before the Commission;

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

52. Obstruction

A person who–

(a) wilfully or recklessly publishes false information as part of the proactive publication activities of a public body;

(b) wilfully or recklessly destroys, erases, alters, damages, conceals, falsifies or obstructs access to any information within the possession, custody or control of any public body with the intention of preventing the disclosure of such information or any part thereof;

(c) wilfully obstructs or denies access to information that is not otherwise exempted.

(d) deliberately, willfully or recklessly obstructs the provision of information or intentionally provides incorrect, incomplete or inaccurate information;

(e) deliberately, willfully or recklessly destroys, erases, invalidates, damages, falsifies, alters or totally or partially conceal any information within the possession, custody or control of any public body with the intention of preventing the disclosure of such information or any part thereof;

(f) fails or refuses to appear before the Commission when requested to do so by the Commission;

(g) appears before the Commission, and fails or refuses to be examined by the Commission or to produce any information which is in that person's possession or power or deliberately provides false information under oath or affirmation;

(h) fails or refuses to comply with or give effect to a decision of the Commission;

(i) resists or obstructs the Commission or any officer or other employee of the Commission, in the exercise of any power conferred on the Commission or such officer or employee, by this Act

commits an offence and shall on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment not exceeding one year or both.

PART X
GENERAL

53. Funds.

(1) The Government shall provide the Commission with adequate funds annually to enable the Commission to fully and effectively discharge its functions under this Act.

(2) The Commission shall, in each calendar year and in consultation with the Minister charged with the responsibility for finance, frame a budget estimate showing detailed estimates of the revenue and expenditure which it proposes to incur during

the following year, which shall be transmitted to the Government, and such budget shall contain provisions adequate in the opinion of the Commission for the full execution of its functions.

(3) The Government shall take into consideration the budget estimate referred to in subsection (2) in allocating adequate funds for the Commission and endeavour to approve such budget estimate in its entirety:

Provided that, subject to subsection (1) and the principal object of this Act, the Government may modify, reject, or add any item to such budget estimate before approving it if it sees fit.

(4) Where the Commission determines that additional funding is required for the full and effective discharge of its functions under this Act in any given calendar year, the Commission shall frame a supplementary estimate showing details of the expenditure it proposes to incur in consultation with the Minister charged with the responsibility for finance, and transmit such supplementary estimate to the Government.

(5) Subsection (3) shall apply, *mutatis mutandis*, to the supplementary estimate referred to in subsection (4).

(6) The Commission may only receive foreign funding where such funding is for activities which align with the work of the Commission and where any conditions on such funding, other than conditions relating to financial reporting (probity), also align with the work of the Commission.

(7) The Commission shall cause proper audited accounts to be kept of its income and expenditure, and assets and liabilities.

(8) The financial year of the Commission shall be the calendar year.

(9) Any fees collected by the Commission pursuant to section 54 shall be credited to the funds of the Commission.

(10) Any expenses incurred by the Commission in any action or proceeding, civil or criminal, brought by or against the Commission before any court shall be paid out of the funds of the Commission and any cost paid to or recovered by, the Commission in any such action or proceeding, civil or criminal, shall be credited to the funds of the Commission.

54. Fees.

(1) No fee may be charged by a public body or the Commission for–

(a) an applicant to submit a request for information or an application for internal review;

(b) a third party to submit an application for internal review; and

(c) an appellant to submit an appeal against a decision of an internal review.

(2) Subject to the overriding consideration of the principal object of this Act, the Commission shall, in consultation with the Minister charged with the responsibility for finance, determine–

(a) any fees payable by applicants for the costs of reproduction of physical copies of any information, which shall be the only fees public bodies may charge applicants; and

(b) regulations for the waiver of fees for indigent applicants.

(3) Notwithstanding subsection (2), no fee shall be charged by a public body for the first 15 pages of photocopies.

55. Application of Act 240.

The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Commission.

56. Annual reports.

(1) The Commission shall not later than the first meeting of Parliament of the following year, submit an annual report to Parliament of all its activities during the year to which the report relates, along with an overview of the activities of all public bodies under this Act, including statistical information about requests for information which have been made and how they were processed, and information about challenges faced in implementing the Act and any recommendations for reforms.

(2) The report shall contain summary information and overall analysis of matters referred to the Commission, including the number and nature of such matters, the actions taken, and any general recommendations made by the Commission. Where possible, it shall also include summaries of responses received from public bodies in respect of such recommendations. The report referred to in subsection (1) shall also include a detailed financial overview of the operations of the Commission.

(3) Detailed information regarding individual matters, including the Commission's decisions and recommendations, shall be published and maintained on the website of the Commission. Private and sensitive information may be redacted if necessary.

(4) The annual report referred to in subsection (1) shall be tabled before and debated by the Parliament within one of the meetings of Parliament in the year when the annual report is submitted to Parliament and shall also be published on the website of the Commission.

57. Protection against criminal and civil liability.

(1) No person, including a Commissioner, Information Officer, staff of the Commission and other official, is criminally or civilly liable for the disclosure or authorisation of the disclosure in good faith and in public interest of any information under this Act.

(2) No person may be subjected to any detriment in the course of their employment, including retaliatory actions, by reason of the disclosure or authorisation of the disclosure in good faith and in public interest of any information under this Act.

58. Application of Act 198.

The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution, or proceedings against the Commission or against a Commissioner, officer,

employee, servant, or agent of the Commission, or Information Officer in respect of any act or thing done or committed by them in such capacity.

59. Protection of whistleblowers.

(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 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.

(2) For purposes of subsection (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 in relation to a public authority.

(3) Subsection (1) shall apply notwithstanding Section 203A of the Penal Code *[Act 574]*.

60. Public servant.

Every Commissioner, officer, employee, servant, and agent of the Commission shall, when acting within the scope of their powers, functions, and duties, be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

61. Vexatious requests for information.

The Commission may, upon application by a public body, declare a request for information to be vexatious if it is satisfied that the request constitutes an abuse of the right of access under this Act. In making such a determination, the Commission shall have regard to the principal object and purposes of this Act.

62. Institution and conduct of prosecution.

No prosecution in respect of any offence under this Act shall be instituted except by or with written consent of the Public Prosecutor.

63. Standards, guidelines, and practice notes.

(1) The Commission may issue standards, guidelines, and practice notes that it considers necessary or appropriate to assist public bodies in giving effect to the principal object of this Act.

(2) Unless explicitly stated otherwise, such standards, guidelines, and practice notes shall be advisory and non-binding in nature.

(3) The Commission may revoke, vary, revise, or amend any standards, guidelines, or practice notes issued under this section.

(4) The Commission may provide for any standard, guideline, or practice note referred to in subsection (1) to have binding effect only where expressly authorized by this Act or other applicable law, and only with respect to a specified class of persons or

circumstances. In such cases, the Commission shall specify the period within which the binding standard, guideline, or practice note shall be given effect.

64. Regulations.

(1) The Commission may, in consultation with relevant stakeholders and the Minister, make such regulations as may be necessary or expedient for–

(a) regulating its own affairs, procedures, and processes;

(b) giving full effect to the provisions of this Act;

(c) carrying out or achieving the principal object of this Act; and

(d) improving the implementation of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may–

(a) prescribe forms, fees, and fee waivers for the purposes of this Act;

(b) prescribe a template or format for the information publication schemes;

(c) prescribe any entity to be deemed as a prescribed authority under this Act; and

(d) establish standard operating procedures for the receiving, processing, and management of requests for information, applications for internal review, and appeals to the Commission.

PART XI
EXTENSION OF APPLICATION TO STATES AND ESTABLISHMENT OF STATE INFORMATION COMMISSIONS

65. Extension of application of this Act to a Government of a State, etc.

(1) The Legislature of any State shall by law extend the operation of this Act and the jurisdiction of the Commission to the public bodies under the Government of that State.

(2) Any extension of the operation of this Act and the jurisdiction of the Commission made by the Legislature of any State pursuant to subsection (1) may be revoked or modified by a law passed by the Legislature of such State.

66. State Information Commissions.

(1) Pursuant to section 65, the Government of a State shall, with the approval of the Legislature of such State, establish a State Information Commission which shall exercise jurisdiction over the public bodies in that particular State.

(2) Sections 2 – 64 of this Act shall apply *mutatis mutandis* to a State Information Commission as they apply to the Commission, in particular and subject to the following:

(a) references to the Commission shall be construed as references to that State Information Commission;

(b) references to the Government shall be construed as references to the Government of that State;

(c) references to the Minister shall be construed as references to the Menteri Besar, Chief Minister or Premier of that State, as the case may be; and

(d) references to Parliament or the Dewan Rakyat shall be construed as references to the Legislative Assembly of that State.