

# Law of the Republic of Azerbaijan

## on Access to Information

### **Chapter I. General regulations**

#### **Article 1. Objective of the Law**

The purpose of the present Law is to establish the legal framework for ensuring free, unrestricted and equal information access as prescribed by Article 50 of the Constitution of the Republic of Azerbaijan based on open society and democratic law-governed state principles, as well as to create conditions for control by citizens on the exercising of public duties.

#### **Article 2. Freedom of Access to Information**

2.1. Access to information in the Republic of Azerbaijan is free.

2.2. Any person is entitled to apply directly or through his/her representative to the information owner and to choose the type and form to get information.

2.3. Any person applying for information to its owner shall:

2.3.1. inquire on availability of required information from information owner, get supporting details if information is missing;

2.3.2. get requested information freely, on unrestricted and equal basis, if the information owner possesses it.

2.4. Individuals are entitled to get easily familiarized with documented information on themselves, obtain and require adjustments thereto, as well as to inquire on by which persons and for which purposes such information is being used.

*2.4-1. Information receipt is permitted on the condition that it would not conflict with the objectives of protecting the interests of the Republic of Azerbaijan in the political, economic, military, financial, credit, monetary-political areas, the protection of public order, health, morale, human rights and freedoms of other persons, commercial and other economic interests, maintaining the authority and impartiality of the court, the normal course of the preliminary investigation in criminal cases.*

2.5. The documented information obtained from the information owners under requirements of this Law may be used to produce the derived information for other

purposes, including the commercial purposes, providing for that the source of information is referred to when producing such derived information.

### **Article 3. Definitions**

3.0. The following definitions are used in this Law with the meanings specified:

3.0.1. information – any facts, opinions, knowledge, news or other sort of information produced or acquired in result of any activities, irrespective of the date of producing, presentation form and classification;

3.0.2. private information or information on family life (hereinafter – the private life) – any facts, opinions, knowledge on events, activities and circumstances directly or indirectly facilitating the identification of the person;

3.0.3. public information - any facts, opinions, knowledge produced or acquired during performance of duties provided by the legislation or other legal acts;

3.0.4. information services – activities aimed at provision of any person requesting the information;

3.0.5. information owner – state bodies, municipalities, legal entities irrespective of the ownership type, and individuals as determined by Article 9 hereof to guarantee the right of information access;

3.0.6. request for information – written or oral request to acquire the information;

3.0.7. information requester (hereinafter – the requester) – legal entity or individual applying in writing or verbally to acquire the information;

3.0.8. information disclosure – distribution of information via mass media, official publications, questionnaires and reference books; placement at the Internet Information Resources; declaration at briefings, press-releases or conferences; disclosure during official or public events without any request for information;

### **Article 4. Scope of the Law**

4.1. This Law determines the following:

4.1.1. terms, procedures and forms of information access, as well as grounds for denial by the information owner from submitting such information;

4.1.2 limitations on public information access and procedures for disclosing and presenting that portion of such information that is not regulated by other laws;

4.1.3. procedures to effect a control over the organization of the process of acquiring the information;

4.2. This Law does not apply to:

4.2.1. the information constituting the state secret as set forth in the legislation;

4.2.2. the provision of the working access to archived documents in accordance with the Law of the Republic of Azerbaijan ‘On National Archive Fund’;

4.2.3. the proposals, applications and complaints regulated by the Law of the Republic of Azerbaijan "*On application of citizens*";

4.2.4. the limitations determined by the international agreements.

## **Article 5. Legislation of the Republic of Azerbaijan on Information Access**

5.1. Legislation of the Republic of Azerbaijan on information access consists of the Constitution of the Republic of Azerbaijan, this Law and other legal acts elaborated under requirements of this Law.

5.2. Other legal acts of the Republic of Azerbaijan cannot provide for any regulations contradicting the requirements of the present Law.

## **Article 6. Main Principles of Information Access**

6.1. Basic principles of information access are as follows:

6.1.1. free, unrestricted and equal provision of information request;

6.1.2. legality of the information access;

6.1.3. obligation of state bodies and municipalities to disclose the information;

6.1.4. maximal transparency of information;

6.1.5. execution of any information request as soon as practicable and with the most appropriate method;

6.1.6. *contradiction of information receipt to purposes provided for in Article 2.4.1 of this Law*;

6.1.7. state protection of the right of information access, including judicially;

6.1.8. free-of-charge information access, unless otherwise is provided for by this Law;

6.1.9. responsibility of the information owners for violating the right of information access;

6.1.10. not exceeding any limitation on information access over the grounds causing such limitations;

6.1.11. non-forcing officials to disclose the information on offences that generate the public interest.

*6.2. Except for operational-searching actions, shadowing, video and photo recording, voice recording and other such actions by mass media representatives and other persons without the knowledge of a person or in spite of his/her objection, is a cause for the responsibility determined by the legislation.*

## **Article 7. Documented Information (Document)**

7.1. Any identifiable information with any attributes recorded on material carrier in the form of text, voice or image; irrespective of its source, place of storage, official status, type of ownership and whether or not it has been produced by the entity which it belongs to, is considered a documented information (hereinafter – the document).

7.2. Information owner owns a document if:

7.2.1. the document available at the information owner does not belong to another information owner;

7.2.2. the document available at another information owner belongs to the information owner;

## **Article 8. Storage, Filing and Protection of Document**

8.1. Rules for storage, filing and protection of information are defined by the respective executive body;

8.2. Information owner is responsible for storage, filing and protection of the pertinent information in accordance with the policies as set in Article 8.1 hereof;

8.3. Information owner establishes and ensures the implementation of procedures for access by individuals to the private information on themselves and making adjustments, if required, under requirements of this Law *and the Law «On Personal Data» of the Republic of Azerbaijan.*

## **Article 9. Information Owners**

9.1. The below listed are considered the information owners:

9.1.1. state bodies and municipalities;

9.1.2. legal entities (*including public legal entities*) implementing the public functions, as well as private legal entities and individuals engaged in the spheres of education, healthcare, cultural and social sphere based on legal acts or contracts.

9.2. Information owner's obligations, established by this Law, pertain to legal entities and individuals defined in Article 9.1.2 hereof only in relation to the information produced or acquired as a result of public duties carried out, or services provided for in the spheres of education, healthcare, cultural and social sphere based on the legal acts or contracts.

9.3. The below listed are considered equal to the information owners:

9.3.1. legal entities holding the dominant position, as well as holding a special or exclusive right at the products market, or being a natural monopoly – in relation to the information associated with the terms of offers and prices of goods as well as the services and changes in such terms and prices;

9.3.2. fully or partially state-owned or subordinated non-commercial organizations, off-budget funds, as well as trade associations where the state is a member or a participant – in relation to the information associated with the use of the state budget funds or properties contributed to them.

## **Chapter II. Organizing of Information Access**

### **Article 10. Information Owner Obligations**

10.1. Information owner is obliged to secure everyone's free, unrestricted and equal right of access to pertaining information resources under the procedures established by this Law.

10.2. For these purposes, the information owner appoints an official or establishes a department on information matters, provides information services.

10.3. Appointment of an official or establishment of a department on information matters cannot serve a ground for denial from the provision of information services.

10.4. Information owner:

10.4.1. provides for request for information as soon as practicable and as applicable for the requestor;

10.4.2. maintains the register of documents;

10.4.3. regularly provides the public with information on implementation of public duties;

10.4.4. discloses the public information that is due to be disclosed under the procedures and terms established by this Law;

10.4.5. assists a requestor;

10.4.6. informs a requestor about the limitations on information access;

10.4.7. protects information, to which the access is limited by law;

10.4.8. avoids submission of incorrect, incomplete or inaccurate information, checks accuracy and reliability of information in case of any doubts.

10.5 Official or department on information matters performs the following functions:

10.5.1. examines the requests carefully and makes decisions;

10.5.2. answers the requests in order anticipated by this Law;

10.5.3. controls over rendering of information services;

~~10.5.4. prepares statements to be presented to the authorized agent on information matters;~~

10.5.5. examines and settles complaints addressed to information owner in relation to information access;

10.5.6. carries out other obligations as regards to provision of information services.

~~10.6. Reports are presented to the authorized agent on information matters twice a year—on the first and seventh month of every current year. If the authorized agent demands, the information owner must present additional reports.~~

## **Article 11. Responsibility for Organizing of Information Access**

11.1. Manager of the information owner establishes internal execution procedures for organizing of information services.

11.2. Information owners specified by Article 9 of this Law are responsible for the organizing of the information access as provided by the legislation.

11.3. If information owner fails to appoint an official or establish a department on information matters, then the person determined by the information owner for

implementing of this function shall be responsible for the execution of the request for information.

11.4. The responsibility for information disclosure stipulated by this Law is born by the head of the information owner, unless the other person is officially in charge for implementing this function.

## **Article 12. Register of Documents**

12.1. Register of Documents (hereinafter – the Register) is a publicly-accessible e-database with information received by the information owner, produced or acquired as a result of implementation of registered public duties.

12.2. The relevant executive power body defines policies for creating, maintenance and periodic update of the Register.

12.3. The information owner is obliged to register the below documents in the Register within the period, stipulated by this Article:

12.3.1. incoming, outgoing or internally produced documents – on the date of entry, dispatch or internal production;

12.3.2. legal acts – date of signing;

12.3.3. contracts – effective dates.

12.4. *Accounting* documents, greeting letters, notifications, memorandums, guarantees, as well as minutes of meetings, forums, conferences and other public events or the information on such events, various statistic statements are not recorded in the Register.

12.5. In addition to information listed in Article 15.1, the following details must be recorded in the Register:

12.5.1. type of receipt or sending of the document (by e-mail, mail, fax, courier);

12.5.2 type of the document (request for information, offer, claim, complaint, report, normative act, etc.);

12.5.3. if applicable, the limitations for access to document, etc.

12.6. The Register shall also reflect the term stipulated by the law for implementing of the document requiring examination or reply, name of department, as well as name and surname of official preparing a reply.

12.7. In order to simplify the usage of the Register and search of documents, the information owner prepares a Register Usage Rules.

### **Chapter III. Request-based Provision of Access to Information**

#### **Article 13. Methods of Submission of Information Request**

13.1. A requestor submits a request for information by the following ways:

13.1.1. verbally by applying to the information owner's official directly or by phone;

13.1.2. to deliver the information to the information requester personally or in a written form by sending it by post, fax, or e-mail.

#### **Article 14. Forms of the Information Access**

14.1. A requestor may require the implementing of the request in one of below manners or other available manner:

14.1.1 access to the place designated for familiarization with a document;

14.1.2 rewriting of the document;

14.1.3 copying of a document using information owner's technical means or getting a certified copy of the document;

14.1.4 copying a document using a requestor's technical means;

14.1.5 presentation of shorthand records or other coded documents after transforming them to the readable condition;

14.1.6 translation of the document;

14.1.7 conversion of the document to e-careers, etc.

14.2. Legal forms of the information access:

14.2.1 information submitted obligingly in accordance with the requirements of this Law;

14.2.2. information submitted on contract basis.

14.3. In cases provided by Article 14.2.1 hereof, the information is presented free of charge, on the chargeable basis or with discounts.

14.4. In cases provided by Article 14.2.2 hereof, the time for presentation of the information is defined based on mutual agreement of information owner and requestor.

14.5. Information owner may refuse to implement the request for information in form indicated in this request when:

14.5.1. there is a lack of technical means;

14.5.2. the request is not executable due to the type of the information career;

14.5.3. information to be submitted under the verbal request is highly time consuming and so impedes the implementation of the information owner's principal obligations.

14.6. In cases delineated by Articles 14.5.1 and 14.5.2 hereof, the information owner at its own discretion chooses the form of implementing of the request and, when contact details contained in the request allow this, discuss the matter with the requestor.

14.7. When verbal reply of the official does not satisfy a requestor and in cases delineated by Article 14.5.3 hereof, the requestor is suggested to apply in writing.

14.8. When the request is not explicit in what concerns the presentation form of the information and it is impracticable to define this during the period of implementing of this request, then the request shall be executed in the form chosen by the information owner.

## **Article 15. Request for Access to Information**

15.1. A written request for information should contain:

15.1.1. name and family name of the requestor;

15.1.2. when the request is submitted by a legal entity – the name of the legal entity as well;

15.1.3. contact details on the requestor to enable the information owner to execute the request (mail or e-mail address, telephone or fax numbers);

15.1.4. content of the requested information, or type or name of the document, document details known to the requestor;

15.1.5. presentation form of information.

15.2. If the requestor wishes to acquire private information, the request shall be submitted directly to the information owner's official together with the requestor's identification document.

15.3. When the private information is needed or civil or municipal servant makes a request for implementation of the official duties, the need to obtain the information

should be grounded. *The provision of personal data in accordance with the Law of the Republic of Azerbaijan «On personal data».*

15.4. A servant may not acquire any information for his/her private purposes on the pretext of the official duties or making use of his/her official position, nor use the information acquired during implementation of the official duties for other purposes.

15.5. Except for cases delineated in Articles 15.3, 21.2.1, 22.4 and 24.3 hereof, a requestor is not required to ground the need to obtain the information.

15.6. A written request is signed by individual or legal entity's head or their authorized representative.

15.7. A written request may not be declined.

## **Article 16. Methods of Implementing of the Request for Information**

16.1. Information owner executes a request under the following methods:

16.1.1. recording on information e-carriers or sending to e-mail address shown in the request;

16.1.2. presenting a copy of the document or extract from the document directly to the requestor or sending to his mail address;

16.1.3. by fax;

16.1.4. verbally;

16.1.5. permitting the access to places designated for familiarization with the information;

16.1.6. other methods taking into account the type of the information carrier.

16.2. Requests for information shall be implemented verbally only in below cases:

16.2.1. in case of direct appeal to officials;

16.2.2. when the details of the request for information are questioned;

16.2.3. when learning if the information owner possesses the information required to the requestor.

16.3. When the copying of the document may damage the original, the information owner should provide a requestor with conditions for:

16.3.1. familiarization by him/herself with the manuscripts or printed materials;

16.3.2. listening audio materials, reviewing audiovisual materials and making records.

16.4. The official, replying to request in a verbal form, is not required to read a document.

16.5. When the requested information is available in several languages, the document shall be presented in the language mentioned in the request as preferable.

#### **Article 17. Information Owner's Obligation to Assist to Surveyer**

17.1. Information Owner should communicate to a requestor the terms, policies and methods of the information access in understandable form.

17.2. When the information owner does not possess the requested information, he should assist a requestor to find a probable location of such information.

17.3. When the request does not specify explicitly the required information or the presentation form of this information, the official should communicate with the requestor to define the matter.

17.4. Verbal requests of persons who are not able to apply with written requests due to illiteracy or physical disability shall be prepared by the information owner's officials in written form with indication of their names, family names, positions and then registered with indication of the date.

#### **Article 18. Registration of the Request for Information**

18.1. Information owner registers the request for information on the date of entry and include the information enlisted in Article 15.1 hereof to the Register indicated in Article 12 hereof.

18.2. Request for information is not registered and executed in written form in below cases:

18.2.1. if request is anonymous;

18.2.2. if request is verbal.

18.3. The request is not considered anonymous when it has been presented on the legal entity's letterhead or with indication of individual's at least one contact detail.

#### **Article 19. Examination of the Request for Information**

19.1 The request is carefully examined by the information owner's official. With this purpose:

19.1.1. the compliance of the request to requirements of this Law;

19.1.2. availability of the required information with the information resources;

19.1.3. where to direct the information if the required information is not available in the information resources;

19.1.4. applicable limitations, if any, when the required information is available in the information resources;

19.1.5. options for the extraction of the information when the required information is open, but subject to limitations under law;

19.1.6. whether or not it is possible to present the required information in the form indicated in the request;

19.1.7. presentation of the information free of charge, on the chargeable basis or with discounts are specified and the decision upon the examination results is taken.

## **Article 20. Decision about Examination Results**

20.1. Information owner's official takes one of the below decisions, depending on the examination results:

20.1. 1. refuses the execution of the request;

20.1.2. provides for the execution of the request;

20.1.3. directs the request to the respective information owner.

## **Article 21. Refuse to Execute the Request**

21.1. Information owner refuses the execution of the request in the following cases:

21.1.1. when the request refers to the information access to which is limited by law, or the requestor is not duly authorized to acquire such information or when the requestor fails to present identification document as required by this Law;

21.1.2. when information owner lacks the required information or finds difficulty in determination of this information's owner;

21.1.3. it is not practicable to determine which information is requested by the requestor.

21.2. Information owner may refuse the execution of the request in the following cases:

21.2.1. the requestor has already been provided with such information and the reason for the repeated access to the information is not grounded in the request;

21.2.2. the information requested by legal entities and individuals provided by Articles 9.1.2 and 9.3 hereof has no relation to implementation of obligations envisaged by Articles 9.1.2 and 9.3 hereof;

21.2.3. due to the large volume of the requested information, the execution of the request impedes the implementation by the information owner of his/her public duties or causes unreasonably heavy expenses;

21.2.4. impracticability to provide for the execution of the request at a time;

21.2.5. execution of the request requires systematization, review and documentation of the information.

21.3. The response to the refusal to provide an information request *shall be* made clear and reasonably with the corresponding articles of the legislation of the Republic of Azerbaijan.

## **Article 22. Settlement of the Request for Information**

22.1. In accordance with the requirements of Article 14.1 hereof, the information owner makes available conditions to acquire the information or provides the requestor with the information.

22.2. When the required information is incorporated in the document with limited access, only the accessible part of the information may be presented.

22.3. Information owner presenting incomplete or inaccurate information should present to the requestor the supplemented information free of charge under the grounded requirement of the requestor.

22.4. When the official confirmation of the presented information is required to exercise the requestor's rights and freedoms or fulfil his/her duties, the information owner should present this information, including the disclosed information, together with the official confirmation.

## **Article 23. Forward of the Request for Information as Appropriate**

23.1. When the information owner lacks the required information, he should determine the respective information owner and forward the request to him/her without delay, i.e. within 5 working days with notifying the requestor accordingly.

23.2. Information owners envisaged by Articles 9.1.2 and 9.3 hereof, may forward the request as appropriate, subject to notification of the requestor about lack of this information without delay, but within 5 working days.

#### **Article 24. Term of Execution of the Request for Information**

24.1. Request for information is executed as soon as practicable, but not later than in 7 working days.

24.2. If this information loses its efficiency in this period, the request should be processed immediately or, if impractical, not later than in 24 hours.

24.3. In cases of convincing threat to life, health or freedom of a person, the information requiring certain time for search and prepare should be presented within 48 hours (except for *weekends, election days, holidays which are considered non-working and National Mourning Day*).

24.4. If the request is incomplete or inaccurate, the official should inform the requestor on identified deficiencies within 5 working days.

24.5. The term of execution of the request for information as provided by the present Law starts on the working day following the date of registration of the request.

24.6. In cases provided for by Article 24.4 hereof the period of execution of the request starts on the working day following the date of resubmission of the adjusted request, and in cases provided for by Article 23.1 hereof the time for consideration of the request starts on the working day following the date of receipt of the request by the respective information owner, rather than the date of the first entry.

#### **Article 25. Extension of the Term of Execution of the Request for Information**

25.1. If the information owner receives overmuch requests and, therefore, needs the additional time for preparation of the information, or if there is a need to define the essence of the request or to investigate too many documents to clarify the information, the information owner may extend the execution term provided for by this Law for additional 7 working days.

25.2. Information owner informs the requestor on the extension of the execution period with specification of the respective grounds within 5 working days.

#### **Article 26. Fee for the Information Access**

26.1. The information access is free of charge if the requestor has been familiarized with the information, rewrote it by hand or copied it by using own technical means, or in other cases without providing him/her with a technical support.

26.2. Access to public information is not chargeable.

26.3. Information service may be chargeable, subject to that the amount of charge does not exceed expenses incurred for preparation and presentation of the information.

26.4. The relevant executive authority *with the consent of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan* defines:

26.4.1. the list of chargeable information services;

26.4.2. the payment procedures for preparation and presentation of the information;

26.4.3. the cases requiring prepayment for presentation of the information;

26.4.4. the conditions for applicable payment discounts;

26.4.5. the terms and procedures for execution of the request for information on contractual basis except for cases provided for by Article 14.4 hereof.

## **Article 27. When the Request for Information is Considered Executed**

27.1. The request for information is considered executed when:

27.1.1. the information has been submitted to the requestor in form and manner envisaged by this Law;

27.1.2. the information request has been forwarded as appropriate and the requestor is notified accordingly;

27.1.3. options for familiarization with disclosed information were described to the requestor;

27.1.4. the requestor receives grounded notification on the refusal to execute the request for information.

### ***Article 27-1. An appeal against a refusal to perform or improper performance of an information request***

*The requesting party may file a complaint against the refusal to execute or improper execution of the request to the court or the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. The owner of the information, performing a*

*request for information, explains to the requesting party this right , and notes it in the reply (information).*

## **Article 28. Registration of the Execution and the Refuse to Execute the Request for Information**

28.1. Execution and refuse to execute the request for information are reflected in the Register.

28.2. The following entries are made in the Register upon execution and refuse to execute the request for information:

28.2.1. name and family name of the official responsible for the execution of the request;

28.2.2. details of copied, translated or extracted document;

28.2.3. date of execution or refuse to execute the request;

28.2.4. grounds for refuse to execute the request as set forth in this Law.

## **Chapter IV. Information Disclosure**

### **Article 29. Information Owner's Obligation to Disclose the Information**

29.1. In order to meet the public interests more easily and efficiently and lessen the number of multitudinous requests for information, the information owner should disclose the following information available, or produced or acquired as a result of implementation of public duties:

29.1.1. consolidated statistical data, including consolidated statistics on crimes and administrative violations;

29.1.2. budget forecasts;

29.1.3. statutes on departments of state bodies;

29.1.4. guidance prepared in connection with activities of state bodies and municipalities;

29.1.5. staffing table of state bodies and municipalities, names, family names, telephone numbers, e-mail addresses, education and specialization details of officials employed by these authorities;

29.1.6. reports on activities of state bodies and municipalities;

- 29.1.7. names, family names, e-mail addresses of persons, who are the members of administration of legal entities (*including public legal entities*) engaged in exercising public functions;
- 29.1.8. information on conditions and results of state and municipal purchases, as well as sales of and changes in ownership rights in state and municipal properties;
- 29.1.9. information about loans, grants to information owners provided by Article 9.1 hereof, their terms and utilization;
- 29.1.10. draft standard legal acts – from the date of submission for agreement and approval;
- 29.1.11. standard legal acts – from the date of effectiveness;
- 29.1.12. reports on activities of legal entities (*including public legal entities*) engaged in exercising public functions, information about their incomes and expense;
- 29.1.13. statements on execution of the state budget and rolling budget;
- 29.1.14. information on the state of the environment, damage to environment, *hazardous environmental effects and environmental impact assessment*;
- 29.1.15. decrees, resolutions and orders of state bodies and municipalities – from the date of effectiveness of decrees, resolutions and orders;
- 29.1.16. drafts of concepts, development plans and programs of public importance – till the submission for approval;
- 29.1.17. information on vacancies in state bodies and municipalities;
- 29.1.18. information on products and services of state bodies and municipalities;
- 29.1.19. information on use of state budget funds or property contributed to private legal entities established by, or operating with participation of state bodies and municipalities;
- 29.1.20. public events programs;
- 29.1.21. information on changes in services provided for by state bodies and municipalities – at least ten days prior to making the changes;
- 29.1.22. information on hours of service of heads of state bodies and municipalities;

29.1.23. information on salary rates, salary payment guidance, bonus payment policies and special benefits effective in state bodies and municipalities;

29.1.24. information available to legal entities (*including public legal entities*) engaged in exercising public functions, as well as private legal entities and individuals serving in the spheres of education, healthcare, cultural and social sphere on the basis of legal acts and contracts, concerning the exercising of these functions;

29.1.25. legal entities holding dominant position, or special or exclusive right at the product market, or being a natural monopoly – the information relating to terms of offer and prices of goods and services as well as changes in such terms and prices – at least 30 days prior to offering the terms or making the changes in these terms and prices;

29.1.26. information on the use of state budget funds or property contributed to fully or partially publicly owned or controlled non-commercial organizations, off-budget funds, as well as the trade associations where the state is a member or a participant;

29.1.27. information on public services to population, as well as changes in service charges made during provision of these services – prior to making these changes;

29.1.28. judicial acts;

29.1.29. information on state registers to the extend provided by law;

29.1.30. Information Owners Register;

29.1.31. results of public opinion inquiries;

29.1.32. information on information owner's ownership and obligation of the information owner;

29.1.33. list of information constituting the official secret;

29.1.34. information that is to be disclosed under special law, international agreements or legal acts issued on their basis, or other information as considered necessary by the information owner;

29.2. Public information shown in Article 29.1 hereof, except for cases provided by Article 22.4 hereof, may not be a subject of a request for information.

## **Article 30. Information Disclosure Methods**

30.1. Public information shown in Article 29.1 hereof should be disclosed in the Internet information resources. *The order of disclosure in the Internet information resources of the information about the annual financial activities of budgetary organizations, public legal entities, established on behalf of the state, extrabudgetary state funds, economic objects, 30 percent or more shares (stakes) of which belong to the state, including information relating to the use of funds allocated from the budget or the property allocated to them shall be approved by the body (organization), established by the relevant executive body.*

30.2. Public information shown in Article 29.1 hereof may be disclosed also through:

30.2.1. mass media;

30.2.2. official publications;

30.2.3. libraries, public information centres, other publicly accessible places with providing conditions for getting familiarized with the documents;

30.2.4. other methods as provided for by legislation.

### **Article 31. Selection of the information disclosure method**

31.1. Information owner should disclose the public information under the method that allows everyone wanting such information to get it as soon as practicable.

31.2. if the method of disclosure of public information is envisaged by special law or international agreements, then the method provided by such law or international agreement shall be applied in disclosure of the public information. If this obligation arises also based on requirements of Article 29.1 hereof, the public information is included into the Internet information resources.

31.3. Information owner must immediately disclose the information on threat to lives, health or property of people or to environment, other occasions and facts bearing huge significance for public, through mass media, broadcasting and Internet information resources to prevent this threat or mitigate its probable consequences.

### **Article 32. Duty of the Internet Information Resources Creation**

32.1. State bodies and municipalities create Internet information resources to disclose the public information shown in Article 29.1 hereof.

32.2. Respective executive power bodies should provide conditions for creation of the Internet information resources of subordinated bodies. Internet information resources may be created in field (corporate), regional and other forms.

32.3. Information owners shown in Articles 9.1.2 and 9.3 hereof may create separate or joint Internet information resources in order to disclose the public information.

32.4. Forms and procedures for creation of the Internet information resources of the state bodies and municipalities shall be established by respective executive power body.

### **Article 33. Requirements to Internet Information Resources**

33.1. Information owners shown in Article 9.1.2 hereof:

33.1.1. communicate to public via disclosure with mass media the respective addresses (and changes therein) reflecting the information on options of access to Internet information resources;

33.1.2. place updates and real information in the Internet information resources;

33.1.3. refuse to place outdated, incomplete, inaccurate or misleading information in the Internet information resources;

33.1.4. ensure the effective operation of the Internet information resources.

33.2. Information owner should indicate the time of placement of the document in the Internet information resources and date of its disclosure under other methods.

33.3. Information owners shown in Article 9 hereof should create conditions for prompt and easy access to public information placed in the Internet information resources.

## ***Chapter V. Provision of Official Use of Information***

### **Article 34. Classification of Information**

34.1. Depending on the form of access, the information is classified as publicly accessible or with limited access.

34.2. Information without any access limitations in accordance with law of the Republic of Azerbaijan, are the publicly accessible information.

34.3. Information with limited access in accordance with law is confidential.

34.4. Official secret, professional (doctor, attorney, notary), commercial, investigation or judicial secrets with access limited in order to protect the lawful rights of individuals, entities, agencies, organizations and other legal entities, irrespective of the type of ownership, ~~as well as private information~~ are the confidential information. *By type of income (receipt of) personal data are divided into the categories of confidential and publicly available.*

## **Article 35. Basis for Considering Information as Intended for Official Use**

35.1. Information owner may consider information as intended for official use by limiting access to it.

35.2. Information owner should consider below information as intended for official use within a period provided by this Law:

35.2.1. information collected on criminal or administrative violation cases – until filing the case to a court or passing decision on termination of the case;

35.2.2. information collected during the effecting of state control – until the respective decision is made;

35.2.3. information that will or may impede the formation, improvement and successful completion of the state policy in case of premature disclosure – until the agreement on completion of the process is reached;

35.2.4. information that will or may endanger the effectiveness of testing or financial audit by the state authority in case of premature disclosure – until the completion of testing or financial audit;

35.2.5. information that will or may violate the exchange of views and process of consultations at the state authorities in case of premature disclosure – until the decision is taken;

35.2.6. information that may affect adversely the conduction of economic, monetary and credit or financial policy of the state bodies in case of premature disclosure – until completion of certain actions related to economic, monetary and credit or financial activities;

35.2.7. information that will or may prevent the administration of justice – until making a court judgment;

35.2.8. documents received from foreign states and international agencies – until reaching mutual agreement on document disclosure;

35.2.9. information that will or may endanger the environment or damage the environment components – until elimination of the reasons causing the danger;

35.2.10. when the disclosure deteriorate the lawful interests of the information owner, or the utilization of the information for official use is provided by agreement with private legal entities engaged in exercising public functions – information on technology solutions.

35.3. Information owners may consider the following information as intended for official use in the grounded cases:

35.3.1. drafts of decrees, resolutions and orders of information owners provided by Article 9.1 hereof – until submission of decrees, resolutions and orders for approval;

35.3.2. acts and related documents on implementation of obligations provided by Articles 9.3.1 and 9.3.2 hereof by legal entities enlisted in Article 9.3 hereof – until approval and signing of these acts.

35.4. Information provided for by Article 35.2 hereof may be intended for official use if the harm from disclosure of this information exceeds the public interest to it.

### **Article 36. Policies for Considering Information as Intended for Official Use**

36.1. The documents intended for official use and/or files where they are kept should be denoted by «For Official Use» words. Documents containing private information and/or files where they are kept are to be marked as «For Official Use. Private Information».

36.2. In both cases the effective date and expiry date of limitation must be indicated on documents and/or files where they are kept.

### **Article 37. Limitation on Considering Information as Intended for Official Use**

37.1. Information owners provided by Article 9.1 hereof shall not consider the below information as intended for official use:

37.1.1. results of public opinion polls;

37.1.2. consolidated statistics;

37.1.3. economic and social forecasts;

37.1.4. information on force-majeure, natural disasters and accidents endangering lives and health of people;

37.1.5. information on condition of environment, healthcare, demography, education, culture, economy, including transportation and agriculture, as well as the crime;

37.1.6. reports about performance of information owner, including the information on performance and committed shortages;

37.1.7. information on privileges, benefits and compensations provided by state for citizens, officials, legal entities irrespective of the type of ownership;

- 37.1.8. information on state of health of supreme officials of the Republic of Azerbaijan;
- 37.1.9. facts of law violations by the state authorities and their officials;
- 37.1.10. information on impairment of business image of state and municipal servants, *as well as* individuals and *legal entities (including public legal entities), engaged in exercising public functions*, except for the private information;
- 37.1.11. information on vacancies in state bodies and municipalities;
- 37.1.12. information on utilization of budget funds and economic condition of the state;
- 37.1.13. job descriptions of servants working in the state bodies and municipalities;
- 37.1.14. information on precious metal and currency reserves of the state;
- 37.1.15. standard legal acts;
- 37.1.16. minutes and short-hand records of public sittings of the Milli Mejlis;
- 37.1.17. valid arbitration decisions;
- 37.1.18. list of the information constituting the official secret;
- 37.1.19. information on grants;
- 37.1.20. information on ownership and owner's obligation of the information owner;
- 37.1.21. decrees, resolutions and orders on effecting the state control or issued on the disciplinary basis;
- 37.1.22. information on quality of goods and services connecting to protection of legal interests of consumers;
- 37.1.23. information on results of investigations and reviews conducted or ordered by state bodies and municipalities, if such disclosure does not deteriorate the protection and security of the state;
- 37.1.24. information on changes in environmental components that took place or may take place as a result of activities that affect or may affect the environment and people's health; and estimation of these changes; actions and expenses aimed at preservation and effective use of the environment;

37.1.25. internal documents not registered in the Register – greeting letters, guarantees, memorandums, programs of public events, various statistic statements.

37.2. Legal entities indicated in Article 9.3.1 hereof may not limit to official use the information on terms of offers and prices of goods and services and changes in such terms and prices, whereas the legal entities and individuals indicated in Article 9.3.2 hereof may not limit to official use the information on utilization of state or municipal budget disbursements or properties contributed to them.

## **Article 38. Private Information**

38.1. Private information may be considered as intended for official use by limiting the access to it.

38.2. Private information is a collection of the information on private and family life. Information on private life with limited access is as follows:

38.2.1. information reflecting the political views (except for information on membership), religion, *beliefs* and ideology of private legal entities registered within procedures established by legislation;

38.2.2. information on ethnic origin or racial belonging;

38.2.3. information collected during litigations on crimes or other offences – until the open court or the rendering a judgment on the offence; or in cases required for protection of people’s morality, private or family life, or for the sake of under age persons, victims or witnesses; or for execution of the judgment;

*38.2.3-1. information about the conviction the person;*

38.2.4. information on the state of health;

38.2.5. information on the person’s individual features, abilities and other strains;

38.2.6. information on applications for social protection and social services;

38.2.7. information on mental and physical disability;

*38.2.7-1. information about the commission of domestic violence against the person;*

38.2.8. information on taxation, except for outstanding tax debts;

*38.2.9. information about financial operations.*

38.3. Information on family life with limited access is as follows:

- 38.3.1. information on sexual life;
- 38.3.2. information on registration of acts of civil status;
- 38.3.3. information on various moments of family life;
- 38.3.4. information on adoption.

38.4. Restrictions on obtaining *of personal data specified in this article* shall be imposed from the date of receipt or documentation.

38.5. Information owner, except for the below cases, is obliged to familiarize individuals with private information on themselves on the basis of their requests:

- 38.5.1. when the secret on origin of underage person is clued as a result of his/her access to the information;
- 38.5.2 when the possession of the information hinders the prevention of the crime, detaining an offender or eliciting a truth in a criminal case;
- 38.5.3. rights and freedoms of other persons requires to disclose the information;
- 38.5.4. the information has been collected for state security.

38.6 The following persons are entitled to be familiarized with and have access to the private information provided by this Article:

- 38.6.1. parents and tutors – information on underage persons;
- 38.6.2. tutors – information on persons with physical *impairment*;
- 38.6.3. civil and municipal servants – information on implementation of official duties;
- 38.6.4. those who are permitted to work with private information – only to the information authorized by such permission;
- 38.6.5. employees of private legal entities and entrepreneurs serving in the spheres of education, culture, healthcare and social sphere under legal acts or contracts – only to the extend needed for performance of these services;
- 38.6.6. individuals – information on themselves;

38.7. Information owner shall register the persons acquiring private information, and specify in the Register the purpose, timing and method of the familiarization with, or the access to the information;

#### **Article 39. Access to Information Intended for Official Use**

39.1. Information owner shall disclose the information on offences or accidents interesting for public before the absolute clarification of the respective result, to such extent as not to preclude from the investigation or clarification of the accident's causes.

39.2. The decision on the extent of such information disclosure shall be taken by the official making the investigation or controlling or clarifying the accident's causes.

39.3. If the information shown in Article 37 is a component of the information with limited access, only the portion of the information that is with unlimited access shall be disclosed.

39.4. Civil and municipal servants are entitled to work with documents intended for official use in connection with the implementation of their official duties.

39.5. Manager of the information owner may permit to outside parties to work with the information intended for official use, providing that such information does not deteriorate the interests of the state bodies and municipalities.

#### **Article 40. Term of Limitation of Information Access**

40.1 Limitation of access to information intended for official use shall be removed upon elimination of such limitation's cause, but within a period not exceeding 5 years.

40.2 Limitation of access to private information is effective for the period of up to 75 years from the date of acquiring or documenting of such information or up to 30 years from the death of the person or, when the fact of death is not verified, up to 110 years from the date of birth of this person.

40.3. The invalidity of the limitation of the information access is recoded on the information carrier and the Register.

#### **Article 41. Protection of the Information Intended for Official Use**

41.1. Information owner undertakes the administrative and technical actions to protect the information intended for the official use.

41.2. When the information with limited access is placed in the Internet information resources, the actions for making such information inaccessible shall be taken.

### ***Chapter VI. Control over Law Enforcement***

## **Article 42. Control over Law Enforcement**

42.1. The control over the observation of this Law shall be performed:

42.1.1 by the head of information owner – on the official basis, by superior body – on the basis of subordination;

42.1.2. *Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan - in the manner prescribed by the Constitutional Law of the Republic of Azerbaijan «On the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan».*

## **Article 43. Requirements to Authorized Agent on Information Matters**

~~43.1. The authorized agent on information matters (hereinafter — the authorized agent) shall be elected by the Milli Mejlis of the Republic of Azerbaijan out of 3 nominees recommended by the respective executive power body.~~

~~43.2. Any citizen of the Republic of Azerbaijan with higher education, experienced in the field of information and with extreme morality may be elected an authorized agent.~~

~~43.3. The following persons may not be elected as an authorized agent:~~

~~43.3.1. persons holding rewarding occupation, except for scientific, pedagogical and creative activities, as well as persons bearing any obligation to a foreign state;~~

~~43.3.2. persons with imprisonment unsettled or non-recalled as provided by legislation;~~

~~43.3.3. persons proved by the court as being incapable or partly capable.~~

~~43.4. The authorized agent may not be involved in political activities, represent any political party or hold a managing position at any non-government organization.~~

~~43.5. Any authorized agent shall leave the position not complying with his/her status within 7 days after the election.~~

~~43.6. Term of office of authorized agent is 5 years.~~

~~43.7. Authorized agent may not be elected at this position more than twice.~~

## **Article 44. Status of Agent and establishment of Authorized Agency**

~~44.1. The authorized agent establishes its office for the purpose to have control over the performance of this Law;~~

~~44.2. Authorized agency institution is a legal person and financed from the state budget.~~

~~44.3. The office, table of staff and payroll of the authorized agency are defined by the Authorized agent;~~

~~44.4. The authorized agency owns a seal with the state emblem of the Republic of Azerbaijan on it, letterhead and bank account;~~

~~44.5. The authorized agency functions in accordance with the Regulations «On the office of the authorized agent on information matters.»~~

#### **Article 45. Early Termination of authorities of an agent before its term**

~~45.1. The authorities of the authorized agent are terminated in the following cases according to the initiative of the Milli Majlis of the Republic of Azerbaijan and presentation of the relevant executive power body under decision of the Milli Majlis of the Republic of Azerbaijan:~~

~~45.1.1. When the requirements to the authorized agent as shown in this Law are broken;~~

~~45.1.2. When the authorized agent loses the capability of fulfilling his/her authorities;~~

~~45.2. When the following cases are announced in the session of the Milli Majlis of the Republic of Azerbaijan, the chairman of Milli Majlis of the Republic of Azerbaijan terminates authorities of the authorized agent by order:~~

~~45.2.1. When the authorized agent dies;~~

~~45.2.2. Where there exists legitimate decision of the court on the authorized agent;~~

~~45.2.3. When the authorized agent leaves the job by his/her own wish.~~

~~45.6. When the authorities of the authorized agent are suspended, appropriate executive power body presents the nomination of three people to this position to the Milli Majlis of the Republic of Azerbaijan. Milli Majlis of the Republic of Azerbaijan issues a decision about the election of a new authorized agent within 15 days.~~

#### **Article 46. Authorities of an Agent**

~~46.1. Authorized agent on information matters performs control over implementation of obligations of information owners arising from this Law's requirements.~~

~~46.2. Authorized agent on information matters may initiate a control examination on the basis of complaint or personal initiative.~~

~~46.3. Authorized agent clarifies the below listed during the monitoring:~~

~~46.3.1. whether or not the request for information has been registered in accordance with this Law;~~

~~46.3.2. whether or not the request for information has been executed within procedures, terms and by methods provided by this Law;~~

~~46.3.3. whether or not the refuse to execute the request for information complies with requirements of this Law;~~

~~46.3.4. whether or not the limitation of the information access has been set in accordance with requirements of this Law;~~

~~46.3.5. whether or not the information owner fulfils the obligation of disclosure of public information;~~

~~46.3.6. whether or not the Internet information resource has been created in accordance with requirements of this Law.~~

#### **Article 47. Obligations of Agent**

~~47.1. Authorized agent on information matters:~~

~~47.1.1. communicates to the public the provisions of this Law, provides for legal assistance to citizens in obtaining the information;~~

~~47.1.2. makes suggestions to information owners for improvement of the information services;~~

~~47.1.3. closely cooperates with information owners in order to ensure more effective information access, arranges and holds various informative events to increase the professionalism of human resources involved in this field;~~

~~47.1.4. examines entered applications, applications and complaints, give respective instructions;~~

~~47.1.5. prepares sample request for information;~~

~~47.1.6. performs other obligations arising from the requirements of this Law.~~

~~47.2. Official of the authorized agency on information matters notifies the complainer, information owner or supreme board subordinating the information owner on the results of control;~~

~~47.3. The result of control is also disclosed on Internet information resource of the authorized agency on information matters.~~

#### **Article 48. Rights of Agency**

~~48.1. Rights of the authorized agency are:~~

~~48.1.1. to request reports, clarifications and documents from information owner;~~

~~48.1.2. to get acquainted with documents considered by the information owner as intended for internal use;~~

~~48.1.3. to file the materials on administrative legal violations associated with requirements of this Law to the supreme body of the information owner or court.~~

#### **Article 49. Complaint on Refuse to Execute or Inappropriate Execution of Request for Information**

~~49.1 A requestor is entitled to complain in connection with the refuse to execute or inappropriate execution of the request for information to a court or the authorized agency on information matters.~~

~~49.2 The complaints filed to the authorized agency on information matters shall indicate:~~

~~49.2.1. name and family name of person filing a complaint;~~

~~49.2.2. mailing address or other contact details;~~

~~49.2.3. content of the information inquiry presented to the information owner;~~

~~49.2.4. detailed information on faults committed by the information owner on the request for information; requestor's evidences on illegal actions of the information owner;~~

~~49.2.5. proofs confirming illegal performance of the information owner.~~

~~49.3. If on the complaining person's opinion the information owner illegally refused to execute the request, or furnished inaccurate or incomplete information, the complaint is to be supplemented with the copy of the written reply or the document considered being inaccurate or incomplete.~~

#### **Article 50. Consideration of the Complaint**

~~50.1. The authorized agency on information matters shall consider the complaint within 10 working days after the date of filing, examine the eligibility of activities of the information owner in this regard and provides response to the complainer.~~

~~50.2. If the complaint required clarification or additional explanations and documents are to be collected to investigate the complaint, the authorized agency on information matters may extend the term of the consideration of the complaint to additional 10 days by giving written notification to the complainer.~~

### **Article 51. Refuse to Provide the Complaint**

~~51.1. The authorized agency may refuse to settle the complaint in the below cases:~~

~~51.1.1. when the complaint is anonymous;~~

~~51.1.2. when the complaint does not relate to the certain information owner's activities;~~

~~51.1.3. when the complaint repeated, groundless and biased;~~

~~51.1.4. when there is a valid court decision on this case;~~

~~51.1.5. when the complainer has not used the conditions created by the information owner to eliminate the complaint with the adequate efficiency.~~

~~51.2. Except for the cases provided for by Article 50.1.1 hereof, complainer shall be provided with a grounded reply.~~

### **Article 52. Instructions of Agent**

~~52.1. During the investigation on the basis of control, the authorized agency may accordingly instruct the information owner in the following cases:~~

~~52.1.1. illegal refuse to execute the request for information;~~

~~52.1.2. failure to execute the request for information within the terms provided by this Law;~~

~~52.1.3. improper execution of the request for information;~~

~~52.1.4. non-disclosure or insufficient disclosure of the public information to be disclosed under this Law;~~

~~52.1.5. failure to create or improper creation of the Internet information resource;~~

~~52.1.6. presentation of inaccurate, untrue and incomplete information and non-settlement of the requestor's repeated appeal on this matter;~~

~~52.1.7. setting illegal information access limits;~~

~~52.1.8. disclosure of information, access to which is limited under this Law.~~

~~52.2. Instructions of the authorized agency shall conform to the cases provided for by this Law, do not exceed powers of the authorized agency, and be grounded under legislation of the Republic of Azerbaijan.~~

### **Article 53. Implementation of Instructions of Agency**

~~53.1. Within 5 days of receipt of the instructions of the authorized agency the information owner should undertake measures to implement them and accordingly notify in writing the authorized agency on information matters;~~

~~53.2. The authorized agency discloses the information received from the information owner on its Internet information resource;~~

~~53.3. The information owner is entitled to apply to a court in connection with the instructions of the authorized agency ;~~

### **Article 54. Petition of Agent for Organization of Control in Service Order**

~~54.1. If the information owner fails to perform the instructions of the authorized agency on information matters, the authorized agency files a petition to the information owner's supreme body on the organization of control, or forwards collected documents to a court.~~

~~54.2. Within 15 days from the receipt of the petition, the supreme body carrying out the official control shall review it and inform as appropriate the authorized agency.~~

### **Article 55. Report of Agent on the Law Implementation**

~~55.1. Within three months following the end of every year the authorized agent shall present a report to the Milli Mejlis of the Republic of Azerbaijan.~~

~~55.2. The report of the authorized agent shall reflect the consolidated brief of works performed during a year, including the information on law violations committed by the information owners, applications, complaints, instructions, works done on the official control basis, actions undertaken as well as other matters related to the application of the Law.~~

~~55.3. The report shall be sent to the relevant executive power body, Supreme Court of the Republic of Azerbaijan and Chief Prosecutor of the Republic of Azerbaijan.~~

~~55.4 The report is disclosed in the Internet informational resources of the authorized agent and published in «Azerbaijan» newspaper.~~

## **Chapter VII .Transitional provisions**

## **Article 56. Period for Creation of Internet Information Resources**

56.1. To disclose the public information provided for by Article 29.1 of this Law, the state bodies create their own Internet information resources as soon as practicable, but not later than in 1 year from the publication of this Law, and the municipalities establish their own Internet information resources as soon as practicable, but not later than in 3 years from the publication of this Law.

56.2. The respective executive power bodies shall provide for the conditions for creation of own Internet information resources by subordinated state bodies as soon as practicable, but not later than in 2 years from the publication of this Law.

56.3. Legal entities (*including public legal entities*) engaged in implementation of public functions, as well as private legal entities and individuals performing services in the spheres of education, healthcare, cultural and social sphere, information owners provided by Article 9.3 hereof shall create their own Internet information resources as soon as practicable, but not later than in 2 years from the publication of this Law.

56.4. The information owners disclose the public information available to them, produced or acquired as a result of their activities by other methods provided by legislation or on the basis of information inquiry, until Articles 55.1, 55.2 and 55.3 hereof become effective.

## **Article 57. Term of the office of agent**

~~57.1. The authorized agency on information matters shall be formed not later than in 6 months after this Law has become effective.~~

~~57.2. The requirements arising from Article 26.4 hereof shall be fulfilled within 3 years from the forming of the authorized agency. The information owners shall perform information services on the basis of internal execution until Articles 56.2 hereof become effective.~~

~~57.3. The force of Article 54 hereof shall be applied within 1 year from selection of the authorized agency.~~

## **Article 58. Effect of the Law**

58.1. The requirements arising from Articles 8.1, 8.3, 10.2, 11.1, 12.2, 12.7 and 32.4 hereof shall be fulfilled within 3 months after the publishing of this Law.

58.2. The Law shall become effective from the date of publication. *President of the Republic of Azerbaijan*

*Ilham ALIYEV*

*Baku city, 30 September 2005*

*No. 1024-IIQ*

*Published in «Azerbaijan» newspaper (18 December 2005, No. 293) ( «LegalActs» LLC).*

*Published in «Collection of Laws of the Republic of Azerbaijan» (31 December 2005, No. 12, article 1080) («LegalActs» LLC).*

*As amended on 16 June 2007, No. 389-IIIQD; 12 February 2010, No. 953-IIIQD; 1 February 2010, No. 951-IIIQD; 30 December 2010, No. 41-IVQD; 24 June 2011, No. 178-IVQD; 20 April 2012, No. 323-IVQD; 12 June 2012, No. 384-IVQD; 16 December 2014, No. 1140-IVQD; 20 October, 2015, No. 1398-IVQD; 14 June 2016, No. 281-VQD; 1 February, 2017, No. 507-VQD; 29 June, 2018, No. 1203-VQD; 9 April, 2019, No. 1563-VQD; 3 May, 2019, No. 1580-VQD; 8 July, 2022, No. 584-VIQD («LegalActs» LLC).*

© «LegalActs» LLC

*Unofficial translation*