

**Federal Act  
on the Principle of Freedom of Information in Public Administration  
(Freedom of Information Act, FIA)**

of 17 December 2004 (Status as of 1 January 2007)

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*The Federal Assembly of the Swiss Confederation,*  
on the basis of Article 173(2) of the Constitution<sup>1</sup>,  
upon consideration of the accompanying Report of the Federal Council of 12 February  
2003<sup>2</sup>

*decrees as follows:*

**Section 1      General Provisions**

**Art. 1            Object and Purpose**

This Act seeks to promote transparency with regard to the mandate, organisation and activities of the Public Administration. For this purpose, it shall contribute to informing the public by ensuring access to official documents.

**Art. 2            Scope: *Ratione Personae***

<sup>1</sup> This Act shall apply to:

- a. The Federal Administration
- b. Public and private bodies, existing outside of the Federal Administration, insofar as they pass acts or hand down decisions in the first instance within the meaning of Article 5 of the Federal Act of December 20, 1968 on Administrative Procedures (Administrative Procedures Act)<sup>3</sup>;
- c. The Parliamentary Services.

<sup>2</sup> This Act shall not apply to the Swiss National Bank or the Swiss Federal Banking Commission.

<sup>3</sup> The Federal Council shall be authorised to exclude other departments of the Federal Administration, as well as other public and private bodies outside the Federal Administration, from the scope of this Act, should:

- a. the functions assigned to same so require;
- b. their competitiveness be prejudiced by being subject to this Act; or
- c. the functions assigned to them be of only minor importance.

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<sup>1</sup> SR [Systematic Register of Federal Legislation] **101**

<sup>2</sup> BBl [Federal Gazette] **2003** 1807

<sup>3</sup> SR **172.021**

**Art. 3** Scope: *Ratione Materiae*

<sup>1</sup> This Act shall not apply to:

- a. Access to official documents relating to:
  1. Civil proceedings;
  2. Criminal proceedings;
  3. International legal and administrative assistance proceedings;
  4. International dispute settlement proceedings;
  5. Constitutional and administrative judiciary proceedings; or
  6. Arbitration proceedings; and
- b. The consultation, by a party, of the case file in first-instance administrative proceedings.

<sup>2</sup> Access to official documents containing personal information about the applicant shall be governed by the Federal Act of 19 June 1992 on Data Protection (Data Protection Act)<sup>4</sup>.

**Art. 4** Reservation of Special Provisions

Special provisions contained in other Federal Acts shall be reserved where they:

- a. declare certain information secret; or
- b. declare certain information accessible subject to requirements differing from those set out herein;

**Art. 5** Official Documents

<sup>1</sup> An official document shall be any information:

- a. which has been recorded, regardless of the medium;
- b. retained by the authority which issued same or to which it has been communicated; and
- c. which concern the execution of a public function.

<sup>2</sup> Documents which have been produced by means of a simple computerized process from recorded information which meets the requirements pursuant to (a), (b) and (c) above, shall be deemed to be official documents.

<sup>3</sup> Not deemed to be official documents are any documents which:

- a. are used by an authority in a commercial capacity;
- b. have not been issued; or
- c. are intended for personal use.

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<sup>4</sup> SR 235.1

**Section 2 Right of Access to Official Documents****Art. 6 Principle of Freedom of Information**

<sup>1</sup> Every person shall have the right to inspect official documents and to obtain information about the contents of official documents.

<sup>2</sup> The documents may be inspected *in situ* or a copy thereof may be requested. Legislation governing copyright shall be reserved.

<sup>3</sup> Where an official document has already been published by the Federal Government, in paper or electronic format, the provisions pursuant to (1) and (2) above shall be deemed to have been fulfilled.

**Art. 7 Exceptions**

<sup>1</sup> The right of access shall be limited, deferred or denied, should such access to an official document:

- a. significantly impair the free opinion-forming and decision-making processes of an authority which is subject to this Act, or of another legislative, administrative or judicial body;
- b. affect the execution of specific measures taken by an authority in conformity with its objectives;
- c. be likely to compromise the domestic and international security of Switzerland;
- d. be likely to affect the interests of Switzerland in matters of foreign policy and international relations;
- e. be likely to affect relations between the Federal Government and the cantons or inter-cantonal relations;
- f. be likely to affect the economic or monetary interests of Switzerland;
- g. reveal professional, business or manufacturing secrets; or
- h. result in the release of information provided voluntarily by a third party to an authority which undertook to maintain secrecy with regard thereto.

<sup>2</sup> The right of access shall be limited, deferred or denied, should said access to an official document prejudice the privacy of a third party, unless exceptionally outweighed by public interest.

**Art. 8 Special Cases**

<sup>1</sup> There shall be no right of access to official documents of joint reporting proceedings.

<sup>2</sup> Access to official documents shall only be granted after the political or administrative decisions which they form the basis of have been taken.

<sup>3</sup> By way of exception, the Federal Council may decide to withhold access to official documents resulting from official departmental consultation processes even after rulings have been made.

<sup>4</sup> Under no circumstances shall access to official documents about the status of pending or future negotiations be granted.

<sup>5</sup> Access to reports on the evaluation of the performance of the Federal Administration and the effectiveness of its measures shall be ensured.

#### **Art. 9** Protection of Personal Data

<sup>1</sup> Official documents containing personal data shall, wherever possible, be rendered anonymous prior to inspection.

<sup>2</sup> Where a request for access covers official documents which cannot be rendered anonymous, Article 19 of the Federal Data Protection Act<sup>5</sup> shall apply. The relevant procedure shall be governed by this Act.

### **Section 3 Procedure for Access to Official Documents**

#### **Art. 10** Access Application

<sup>1</sup> An application for access to official documents shall be addressed to the authority which created same or received same as primary addressee from third parties not subject to this Act.

<sup>2</sup> The Federal Council may provide a special procedure for access to official documents by Swiss representation abroad and by missions to international organisations.

<sup>3</sup> The application must be formulated in a sufficiently accurate manner.

<sup>4</sup> The Federal Council shall enact regulations governing the particulars of this procedure:

- a. it shall take the special needs of the media into account;
- b. should a large number of applications cover the same documents, it may stipulate other modalities governing such access;
- c. it may extend the processing deadlines for applications which require particularly extensive processing.

#### **Art. 11** Consultation

<sup>1</sup> Should an application be made for access to official documents which contain personal data, and which the authority is considering granting, it shall consult the person concerned and afford him the opportunity to submit comments within ten days.

<sup>2</sup> The authority shall then inform such consulted person of the position it intends to take concerning the application for access.

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<sup>5</sup> SR 235.1

**Art. 12** Decision of the Authority

<sup>1</sup> The authority shall make a decision as soon as possible; no later than 20 days after receipt of the application.

<sup>2</sup> Said deadline may, under exceptional circumstances, be extended by 20 days, should the application for access concern a large number of documents or documents which are complex or difficult to obtain. Should an application concern official documents containing personal information, the deadline shall be extended for the required period.

<sup>3</sup> Should an application concern official documents containing personal information, the authority shall suspend access until the legal situation has been clarified.

<sup>4</sup> The authority shall inform the applicant, with summary grounds, of any extension of the deadline, limitation or denial of access. Information concerning the limitation or denial of access, as well as the grounds therefore, shall be conveyed in writing.

**Art. 13** Mediation

<sup>1</sup> A request for mediation may be filed by any person:

- a. whose access to official documents has been limited, deferred or denied;
- b. whose application was not decided by the authority within the deadline;
- c. who was consulted pursuant to Art. 11, should the authority intend granting access contrary to his disapproval.

<sup>2</sup> The request for mediation must be filed in writing with the Federal Data Protection and Information Commissioner within 20 days of receipt of the decision from the authority or the date of the authority's failure to comply with the deadline.

<sup>3</sup> Should mediation succeed, the matter shall be deemed to have been settled.

**Art. 14** Recommendation

Should mediation fail to succeed, the Federal Data Protection and Information Commissioner shall provide the participants to the mediation proceedings with a written recommendation within 30 days of receipt of the request for mediation.

**Art. 15** Decision

<sup>1</sup> Within ten days of receipt of the recommendation, the applicant or the person consulted may request a decision pursuant to Article 5 of the Administrative Procedures Act<sup>6</sup>.

<sup>2</sup> Furthermore, the authority shall hand down a decision, where, contrary to the recommendation, it intends to:

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<sup>6</sup> SR 172.021

- a. limit, defer or deny the right of access to an official document;
- b. grant the right of access to an official document containing personal information.

<sup>3</sup> A decision shall be handed down within 20 days of the date of receipt of the recommendation or the request for a decision pursuant to (1) above.

#### **Art. 16<sup>7</sup>** Appeal

<sup>1</sup> Appeals proceedings shall be subject to the general provisions found in the relevant legislation governing the Federal administration of justice.

<sup>2</sup> The instances called upon to hear any appeals shall also have access to official documents which are secret.

#### **Art. 17** Fees

<sup>1</sup> In principle, access to official documents shall be subject to payment of a fee.

<sup>2</sup> No fee shall be charged for:

- a. the processing of an application which gives rise to minimal costs;
- b. mediation proceedings (Art. 13); and
- c. proceedings before the first instance (Art. 15).

<sup>3</sup> The Federal Council shall enact modalities and fee rates on the basis of the effective costs incurred. Special provisions set out in other legislative Acts shall be reserved.

<sup>4</sup> Fees may, in any event, be charged for the release of reports, brochures and other printed material and information carriers.

### **Section 4 Federal Data Protection and Information Commissioner**

#### **Art. 18** Duties and Competencies

The Federal Data Protection and Information Commissioner (the Commissioner) pursuant to Article 26 of the Federal Data Protection Act<sup>8</sup> shall, in particular, have the following duties and competencies under the present Act:

- a. Conducting mediation proceedings (Art. 13) and making a recommendation (Art. 14), should mediation not succeed;

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<sup>7</sup> SR 172.021

<sup>8</sup> SR 235.1

- b. Providing information *ex officio*, or at the request of individuals or authorities, on the modalities governing access to official documents;
- c. Commenting on draft legislation and measures of the Federal Government which have a fundamental impact on the principle of freedom of information.

**Art. 19** Evaluation

<sup>1</sup> The Commissioner shall review the execution and effectiveness of this Act and, in particular, the costs incurred by its implementation, and shall report on a regular basis to the Federal Council.

<sup>2</sup> The Commissioner shall submit the first report on the implementation costs of this Act to the Federal Council within three years of its entry into force.

<sup>3</sup> The reports of the Commissioner shall be published.

**Art. 20** Right to Information and Inspection

<sup>1</sup> Within the context of mediation proceedings, the Commissioner shall have access to official documents, even if same are subject to secrecy.

<sup>2</sup> The Commissioner and his secretariat shall be subject to official secrecy to the same extent as the authorities whose official documents they inspect or from whom they obtain information.

**Section 5** Concluding Provisions**Art. 21** Execution

The Federal Council may, in particular, enact provisions governing the:

- a. processing of official documents;
- b. information pertaining to official documents;
- c. publication of official documents.

**Art. 22** Amendments to Existing Legislation

Amendments to existing legislation shall be governed pursuant to the Annex.

**Art. 23** Transitional Provisions

This Act shall apply to official documents produced or received by authorities after its entry into force.

**Art. 24 Referendum and Entry into Force**

<sup>1</sup>This Act shall be subject to optional referendum.

<sup>2</sup>The Federal Council shall determine the date of entry into force.

Date of entry into force: 1 July 2006.