

CONCEPTS OF DRAFT LAW ON FREEDOM OF INFORMATION

1. Reasons and the need for drafting the Law

The Draft Law shall be developed taking into consideration reasons and the need for:

1. Providing legal guarantee to enforce the provision of the Constitution of Mongolia which stipulates the citizen's right to seek and receive information except those which the State and its bodies are legally bound to protect as confidential.
2. Implementing the statement specified in the "Mongolian Judicial Reform Program", approved by the State Great Hural Decree No 18, of January 22, 2000 and titled "Approval of the program, concept and plan", to take measures directed at legalization of basic rights and liberty of Mongolian citizen in line with content and concept of the Constitution of Mongolia.
3. Implementing the statement specified in the "Concept of Mongolia on Development of Information and Communication Technology until 2010", approved by the State Great Hural Decree No 21, of February 04, 2000 and titled "Approval of the concept", to have an access to the state information and to allow the citizens to exercise the control over activities the state.
4. Implementing the statement specified in the Action Plan for the "Good Governance" component of "Good Governance Program to Ensure Human Security" to take measures directed at improving legal environment in order to ensure freedom of information and openness of activities in government organizations.
5. Ensuring conditions and opportunities for the information with respect to any issues to be provided to the public to be true and correct except confidential information protected by law.

The concept of Model Freedom of Information Law adopted by "Article XIX", the non government organization, located in London shall be used as guidance in developing the Draft Law.

2. General structure and scope of the Draft law and relations to be regulated by the Draft Law

It is planned that Draft Freedom of Information Law shall consist of following Chapters:

- One: General Provisions
- Two: Rights and obligations of government organization, official and citizen
- Three: Commissioner of Information
- Four: Request to be submitted by a citizen to organization or official, requirements to be imposed on request
- Five: Receipt of request, review of and responding to request
- Six: Miscellaneous

It is planned that subject of the Draft Law regulation shall be the relations related to defining the legal grounds to enforce the citizen's right to seek and receive information and citizen's request addressed to organizations or officials and review of and response to such request.

The scope of the Draft Law shall not extend to the confidential information /secrecy/ of the state, organization or individual as provided by law.

The definition of terms used in the Draft Law such as "request", "citizen", "government organization", or "official" shall be given.

Citizen of Mongolia and if not otherwise provided by law, legislation and international treaties of Mongolia, a foreign citizen or stateless person residing on the territory of Mongolia is entitled to obtain information from government organizations or officials on equal grounds as Mongolian citizens.

The Draft Law will establish basic principles to be observed by the state in order to ensure information freedom.

As provided in the Draft Law a citizen who submits a request shall have the right to independently chose the type of request for information, not to explain reasons and needs for requesting information and lodge complaint against government organization or official, who has violated his/her right to obtain information. The Draft Law will also set duties for government organizations or officials to provide the citizen with true and correct information, respond to a request within a time limit set by law and be liable for violation of this law.

Forms to obtain information by a citizen, such as review of documents related to the information, obtaining copy of the documents, making inquiry or obtaining information on official source where information is published will be reflected in the Draft Law.

It is considered that citizens shall be charged for the service to provide information and Government shall establish procedures on amount of service fee, discount on or exemption from the payment of fee or its expenditure.

The Draft Law is intending to determine in detail the form of request to be submitted to government organization or official, requirements to be imposed on request and procedures on acceptance, review of and responding to request.

The Draft Law shall reflect the citizen's right to submit a complaint to higher instance organization or official, if he/she considers that lower instance organization or official has violated his/her lawful rights and interests and lodge a complaint to court if he/she does not agree with decision of the higher instance organization.

As provided by the Draft Law an authorized official is to impose disciplinary penalty on official who is guilty in not receiving the request submitted by a citizen or not providing true or correct information and judge is to impose fines on an official who is guilty in not responding to a request within a set period.

3. Social and economic consequences that may arise after adopting the Draft Law

It is considered that following social and economic consequences may arise after adopting the Draft Law on Freedom of Information:

- 1/ Activities of the Government shall become open to the public.

2/ Opportunity for citizens to have an access for true and correct information will be increased and legal grounds for a mechanism to seek, obtain and disseminate the information by citizen will be established.

3/ Having an easy access to information, involvement of citizens in the social life will be increased and control of the state activities will be improved.

After adopting the law it is considered necessary to create a vacancy in government organizations for an officer who will be in charge of implementing the duties set by the Law or to appoint one of its officer to combine his/her duties with Information Officer's duties.

4. Comments on Draft Law's compliance with other laws and Law on introducing amendments and changes or annulment

In order to make the Law on State Secrecy, Law on Organization's Secrecy and Law on Privacy in line with this Draft Law on Freedom of Information, it is planned to introduce amendments or changes through deletion of unnecessary provisions of those laws.