

CAYMAN ISLANDS



**Freedom of Information Act
(2020 Revision)**

FREEDOM OF INFORMATION (GENERAL) (AMENDMENT) REGULATIONS, 2020

(SL 152 of 2020)

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CAYMAN ISLANDS**Freedom of Information Act
(2020 Revision)****FREEDOM OF INFORMATION (GENERAL)
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In exercise of the powers conferred by section 57 of the Freedom of Information Act (2020 Revision), the Cabinet makes the following Regulations —

Citation

1. These Regulations may be cited as the Freedom of Information (General) (Amendment) Regulations, 2020.

Amendment of regulation 2 of the Freedom of Information (General) Regulations, 2008 - definitions

2. The *Freedom of Information (General) Regulations, 2008*, in these Regulations referred to as the “principal Regulations”, are amended in regulation 2 as follows —
 - (a) by deleting the definition of the words “chief officer” and substituting the following definition —

“ **“chief officer”** has the meaning given by the *Public Service Management Act (2018 Revision)*”;
 - (b) by inserting in the appropriate alphabetical sequence, the following definition —

“ **“consent”** means any freely given, specific, informed and unambiguous indication of a person’s wishes by which a person, by

a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to that person;”;

- (c) by deleting the definition of the words “information manager” and substituting the following definition —

“ **“information manager”** means any person appointed under section 49 of the Act and includes any person who has the power to carry out any of the functions of an information manager as prescribed in these Regulations;”;

- (d) by deleting the definition of the words “personal information” and substituting the following definition —

“ **“personal information”** means information (including information forming part of a database) or an opinion, whether true or not, about an individual, whether living or dead, whose identity is apparent, or can reasonably be ascertained, from the information or opinion, and includes the particulars set out in Schedule 1; and”.

Repeal of regulation 3 - applying for access

3. The principal Regulations are amended by repealing regulation 3.

Repeal and substitution of regulation 4 - applications by third parties

4. The principal Regulations are amended by repealing regulation 4 and substituting the following regulation —

“Applications by third parties

4. (1) No application for access to a record may be made on behalf of a third party unless the record applied for relates to personal information, in which case regulation 13(2) applies.
- (2) Where an application referred to in paragraph (1) is made on behalf of a third party, the information manager dealing with the application shall treat the person making the application as the applicant.”.

Repeal and substitution of regulation 5 - provision of access

5. The principal Regulations are amended by repealing regulation 5 and substituting the following regulation —

“Provision of access

5. (1) Subject to paragraph (2), where a public authority grants access to a record under section 14 of the Act, that record shall be provided to the applicant as soon as practicable.



- (2) Where a fee is payable for granting access to a record, the record shall be provided to the applicant within fourteen calendar days from the date the fee is received by the public authority.”.

Amendment of regulation 7 - receipt and acknowledgement of requests

6. The principal Regulations are amended in regulation 7(3) by deleting the words “a letter of acknowledgement” and substituting the words “a written acknowledgement”.

Repeal and substitution of regulation 11 - notice to third parties

7. The principal Regulations are amended by repealing regulation 11 and substituting the following regulation —

“Notice to third parties

11. (1) Where an information manager intends to grant access to a record which the information manager believes contains third party personal information relating to a living individual, the information manager shall, within fourteen calendar days of receipt of the application, send the third party written notice of the application for access.
- (2) A notice under paragraph (1) shall —
 - (a) state that a request has been made by an applicant (without naming the applicant) for access to a record containing personal information about the third party;
 - (b) describe the contents of the request, the record concerned and the nature of the personal information;
 - (c) afford the third party an opportunity to consent in writing to the disclosure of that third party’s personal information or make written representations to the public authority explaining why the information should not be disclosed;
 - (d) state that the third party should respond within twenty-eight calendar days from the date of the notice (and the notice shall be dispatched on the date of the notice); and
 - (e) state that a decision will be made by the public authority whether or not to grant access to the third party’s personal information in accordance with the Act and these Regulations.
- (3) If the third party does not respond to a notice under paragraph (1) within the time specified in paragraph (2)(d), or the information manager is not satisfied that the notice has reached the third party, the information manager shall make such further attempts as are practical to contact the third party, either by telephone, fax, email, or other feasible means of communication.

- (4) If no access is intended to be given to a record that contains third party personal information relating to a living individual, no notice shall be given to a third party under this regulation.”.

Repeal and substitution of regulation 12 - notification of decisions to grant access and right of appeal

8. The principal Regulations are amended by repealing regulation 12 and substituting the following regulation —

“Notification of decisions to grant access and right of appeal

- 12.** (1) On reaching a decision to grant access or partial access to third party personal information, the information manager shall, as soon as reasonably practicable, send separate written notification of that decision to the applicant and to the third party.
- (2) A notice under paragraph (1) shall state —
- (a) the decision taken by the public authority in relation to the request;
 - (b) the options available to the applicant under sections 33 and 42 of the Act; and
 - (c) if the third party has not consented in writing to the disclosure, that —
 - (i) the third party has a right of appeal under paragraph (3);
 - (ii) access to the record will be given unless the third party appeals the decision to the Ombudsman under paragraph (3);
 - (iii) if the third party intends to appeal the decision of the Ombudsman, that the third party must notify the public authority of the third party’s intention to do so;
 - (iv) the record will be withheld from the applicant until the third party’s time for appeal to the Ombudsman has expired; and
 - (v) if the third party appeals to the Ombudsman, the decision of the Ombudsman will replace the public authority’s decision.
- (3) Where the third party is dissatisfied with the decision, or any part of the decision, under paragraph (1), the third party may appeal to the Ombudsman within thirty calendar days from the date of receipt of the notice of the decision.



- (4) If the third party appeals within the period specified in paragraph (3), the public authority shall not provide access to the record and shall await the decision of the Ombudsman.
- (5) If there is no appeal within the period specified in paragraph (3), the record may be released to the applicant on the first day following that period.”.

Amendment of regulation 13 - application for access: personal information

9. The principal Regulations are amended in regulation 13(2) as follows —
- (a) in subparagraph (b), by inserting after the semi-colon, the word “or”;
 - (b) in subparagraph (c), by deleting the words “letters of administration; or” and substituting the words “letters of administration.”; and
 - (c) by repealing subparagraph (d).

Repeal of Part III - amendment and annotation

10. The principal Regulations are amended by repealing Part III.

Repeal and substitution of regulation 20 - internal review

11. The principal Regulations are amended by repealing regulation 20 and substituting the following regulation —

“Internal review

20. (1) Subject to sections 33 and 34 of the Act and this regulation, the power to conduct an internal review may be delegated to a person of equal or superior rank to the person who made the initial decision.
- (2) Where a chief officer or Minister made the initial decision —
- (a) no internal review shall be conducted; and
 - (b) any appeal against the initial decision shall be made to the Ombudsman.”.

Repeal and substitution of regulation 24 - duty to keep register of applications

12. The principal Regulations are amended by repealing regulation 24 and substituting the following regulation —

“Duty to keep register of applications

24. (1) The information manager shall, in the monitoring and tracking computer system used by Government, keep a register of applications in electronic form.
- (2) The register of applications referred to in paragraph (1) shall include —

- (a) an application number;
- (b) the name of the applicant;
- (c) the date of the application;
- (d) a summary of the applicant's request;
- (e) the decision made in relation to the applicant's request, including the specific section or sections of the Act relied upon where the request was not granted in full;
- (f) the date the response was sent to the applicant;
- (g) whether an internal review was requested by the applicant and the outcome of that review; and
- (h) whether an appeal was made to the Ombudsman by the applicant and the outcome of that appeal.”.

Repeal and substitution of regulation 25 - list of public authorities

- 13.** The principal Regulations are amended in regulation 25 by deleting the words “publish in the Gazette and publicise in such other manner as it may think fit,” and substituting the words “cause to be published in the *Gazette*, on the Government's website or in such other manner and with such frequency as it may think fit”.

Repeal and substitution of Schedule 1 - particulars to be set out in the form of application for access

- 14.** The principal Regulations are amended by repealing Schedule 1 and substituting the following Schedule —

“SCHEDULE 1

(regulation 2)

Scope of “personal information”

1. The scope of “personal information”, as defined in regulation 2, includes —
 - (a) the individual's name, home address and home telephone number;
 - (b) the individual's race, national or ethnic origin, colour, and religious or political beliefs or associations;
 - (c) the individual's age, sex, marital status, family status and sexual orientation;
 - (d) an identifying number, symbol or other particular assigned to the individual;



- (e) the individual's fingerprints, other biometric information, blood-type, genetic information and inheritable characteristics;
 - (f) information about the individual's health and health care history, including information about a physical or mental disability;
 - (g) information about the individual's educational background;
 - (h) information about the individual's financial records;
 - (i) information about the individual's employment history;
 - (j) information about an individual gathered in the course of assessments related to the individual's skills, aptitudes and capabilities, including psychometric testing conducted for employment purposes;
 - (k) information about the individual's criminal history, including criminal records where a pardon has been given;
 - (l) another person's expression of opinion about the individual; and
 - (m) the individual's personal views or opinions, except if those views or opinions are about someone else.
2. The scope of "personal information", as defined in regulation 2, does not include —
- (a) where the individual occupies or has occupied a position in a public authority —
 - (i) the name and official contact details of the individual;
 - (ii) information relating to the position, or its functions;
 - (iii) the general terms upon, and subject to which, the individual would occupy that position; or
 - (iv) anything written or recorded in any form by the individual, in the course of and for the purpose of, the performance of the functions of the position; and
 - (b) where the individual is or was providing a service for a public authority under a contract for services —
 - (i) the name of the individual;
 - (ii) information relating to the service, or the terms of the contract;
 - (iii) anything written or recorded in any form by the individual, in the course of and for the purposes of, the provision of the service; or
 - (iv) the views or opinions of the individual in relation to a public authority, the staff of a public authority, the

business or the performance of the functions of a public authority.”.

Amendment of Schedule 2 - form of letter of acknowledgement

- 15.** The principal Regulations are amended in Schedule 2, in the Schedule heading, by deleting the words “LETTER OF”.

Repeal of Schedule 4 - particulars to be set out in the form of application for amendment or annotation of a personal record

- 16.** The principal Regulations are amended by repealing Schedule 4.

Made in Cabinet the 24th day of November, 2020.

Kim Bullings
Clerk of the Cabinet

These Regulations were affirmed by the Parliament on the 16th day of December, 2020, by Government Motion No. 1 of 2020/2021 in accordance with section 57 of the *Freedom of Information Act (2020 Revision)*.

Zena Merren-Chin
Clerk of the Parliament

