

A Comparative Analysis of Taiwan's Freedom of Information Act 2005

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Abstract

The due process requirements in a modern administration can be roughly divided into three categories: impartiality, fairness and openness. The first two have been codified in Taiwan's Administrative Procedure Act (TW APA) of 1999, while the last was just shaped by the Freedom of Information Act (TW FOIA) of December 2005. This article endeavors for the first time to analyze, in comparative perspective, the merits and defects of the TW FOIA on one hand, and to annotate the provisions on the other hand.

In addition to the introduction and conclusion, this article contains five major sections dealing respectively with the common features of the FOIAs of the United States of America, United Kingdom, Canada, Australia, Japan and Germany, i.e., "General Provisions" (such as the legislative purpose, basic principles, scope of application, and the interaction between the FOIA and other relevant statutes), "Active Disclosure of Information" (including the scope of information and the means of disclosure), "Passive Disclosure of Information" (including the applicant, processing, cost sharing, method of communication and the access to personal information by the subject), "Exemptions from Disclosure" (including the exemption information of

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national security, law enforcement, internal communication, and confidentiality) as well as "Enforcement and Remedies" (including *in camera* review, reverse FOIA suits, and independent supervisory agency).

Besides the annotations, the article sums up a total of 18 specific proposals for future amendment in conjunction with 10 tables.

Keywords: freedom of information, right to know, personal information, exempt information, exemptions from disclosure, active disclosure, passive disclosure, national security information, law enforcement information, personal privacy, trade secret