

THE RIGHT TO INFORMATION BILL, 2004

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THE SCHEDULE

THE RIGHT TO INFORMATION, BILL 2004

A

BILL

to provide for setting out the practical regime of right to information for people to secure access to information under the control of public authorities. in order to promote transparency and accountability in the working of every public authority, the constitution of a Central information Commission and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Right to Information Act, 2004.
- (2) It extends to the whole of India except the State of Jarnmu and Kashmir.
- (3) It shall come into force on the one hundred and twentieth day of its enactment.
2. In this Act, unless the context otherwise requires,
 - (a) "Commission" means the Central Information Commission constituted under section 12;
 - (b) "competent authority" means

(I) the Speaker in the case of the House of the People or the Legislative Assembly of a Union territory and the Chairman in the case of the Council of States;

Short title,
extent and
commence-
ment.

Definitions.

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court of Delhi in the case of the High Court of Delhi;

(iv) the President in the case of other authorities created by or under the Constitution;

(v) the administrator appointed under article 239 of the Constitution;

(c) "Government", in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled by the Central Government or a Union. territory administration, means the Central Government;

(d) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(e) "Information Commissioner" and "Deputy Information Commissioners" mean the Information Commissioner and the Deputy Information Commissioners appointed under sub-section (3) of section 12;

(f) "prescribed" means prescribed by rules made under this Act by the Government or the competent authority, as the case may be;

(g) "public authority" means any authority or body established or constituted,

(i) by or under the Constitution;

(ii) by any other law made by Parliament;

(iii) by notification issued or order made by the Government, and includes any other body owned or controlled by the Government;

(h) "Public Information Officer" means the Public Information Officer appointed under sub-section (1), and, includes an Assistant Information Officer designated as such under sub-section (2), of section 5;

(I) "record" includes

(i) any document, manuscript and file;

(ii) any microfilm, microfiche and facsimile copy of a document;

(iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and,

(iv) any other material produced by a computer or any other device; ,

(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-

(i) inspection of work, documents, records;

(ii) taking notes, extracts, or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device; .

CHAPTER II

RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

Right to
information.
Obligations of
public,
authorities.

3. Subject to the provisions of this Act, all citizens shall have the right to information.

4. (1) Every public authority shall

(a) maintain all *its* records duly catalogued and indexed in a manner and form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

(b) publish before the commencement of this Act,

(i) the particulars of its organisation, functions and duties;

(ii) the powers and duties of *its* officers and employees;

(iii) the procedure followed in the decision making process, including channels of supervision and accountability;

(iv) the norms set by it for the discharge of *its* functions;

(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advise, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of concessions, permits or authorisations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers;

(xvii) such other information as may be prescribed;

and thereafter update there publications within such intervals in each year as may be prescribed;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or *quasi judicial* decisions to affected persons; .

(e) before initiating any project, or formulating any policy, scheme, programme or law, publish or communicate to the public in general or to the persons likely to be affected thereby in particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interest of natural justice and promotion of democratic principles.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information *suo moto* to the public at regular intervals through various means of communications so that the public have minimum resort to the use of this Act to obtain information.

(3) For the purpose of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible and comprehensible to the public.

(4) All materials shall be disseminated taking into consideration the cost, effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Public Information Officer, available free or at such cost of the medium or in print cost price may be prescribed. .

Explanation For the purposes of sub-sections (3) and (4), "disseminated". means making known or communicated' the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

Designation of
Public
Information
Officers.

5. (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as Public Information Officers in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub divisional level or other sub-district level as an Assistant Public Information Officer to receive the applications for information or appeals under this Act for forwarding the same forthwith to it or to the Government:

Provided that where an application for information or appeal is given to an Assistant Public- Information Officer, a period of five days shall be added in computing the period for response specified under' sub-section (1) of section 7.

(3) Every Public Information Officer shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Public Information Officer may seek the assistance of any other officer. as he or she considers it necessary for the proper discharge of his or her' duties.

(5) Any officer whose assistance has been sought under sub-section (4), shall render all assistance to. the Public Information Officer seeking his or her assistance and. for the purposes of any contravention of the provisions of this Act such other officer shall be treated as a Public Information' Officer.

Request for
obtaining
information.

6. (1) A person who desires to obtain any information under this Act shall make a request in writing or through electronic means in English or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to

(a) the Public Information Officer of the concerned public authority;

(b) the Assistant Public Information Officers, specifying

the particulars of the information sought by him or her: .

Provided that where such request cannot be made in writing, the Public Information Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information' shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

7. (1) Subject the proviso to sub-section (2) of section 5 or the proviso to sub.-section

(3) of section 6, the Public Information Officer on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request

(2) If the Public Information Officer fails to give decision on the request for information within the period specified under, sub-section (1), the Public Information Officer shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the 'purpose of calculating the period of thirty days referred to in that sub-section;

(b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the public authority shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to sub-section (6), pay such fee as may be the prescribed.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (I).

Disposal of
request

(7) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been deemed to be rejected under subsection (2), the Public Information Officer shall communicate to the person making the request,—,

(i) the reasons for such rejection;

(ii) the period within which an appeal against such rejection may be preferred;

and

(iii) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

Exemption
from
disclosure of
information.

8. (1) Notwithstanding anything contained in this Act, except as otherwise provided herein, the following information shall be exempted from disclosure, namely:

(a) information, the disclosure of which would,

(i) prejudicially affect the sovereignty and integrity of India, security, strategic, scientific or economic interest of the State, relation with foreign State; or

(ii) lead to an incitement to commit an offence;

(b) information, which has been expressly forbidden to be disclosed by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which may result in a breach of privileges of Parliament or the Legislature of a State;

(d) information, including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party:

Provided that such information may be disclosed, if the Public Information Officer is satisfied that a larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship:

Provided that such information may be disclosed, if the Public Information Officer is satisfied that a larger public interest warrants the disclosure of such information;

(f) information received in confidence from a foreign government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or cause to identify the source of information or assistance given in confidence of law enforcement or security purposes;

(h) information, the disclosure of which would impede the process of investigation or apprehension or prosecution of offenders;

(i) the Cabinet papers, including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of the Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken, shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions listed in this section shall not be disclosed;

(j) information which relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual:

Provided that such information may be disclosed, if the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.

(2) Information which cannot be denied to Parliament or Legislature of a State, as the case may be, shall not be denied to any person.

(3) A public authority may, notwithstanding the exemptions specified in sub-section (1), allow access to information if public interest in disclosure of the information outweighs the harm to the public authority.

(4) Subject to the provisions of clauses (a) and (1) of sub-section (1), any information relating to any occurrence, event or matter which has taken place or occurred ten years before the date on which any request is made under section 6, shall be provided to the person making the request under that section:

Provided that where any question arises to the date from which the said period often years has to be computed, the decision of the Central Government shall be final.

9. Without prejudice to the provisions of section 8, a Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State. .

Grounds for rejection to access in certain cases.

10. (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

Severability.

(2) Where access is granted to a part of the record under sub-Section (1), the public Information Officer shall give a notice to the applicant, informing, -

(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;

(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;

(c) the name and designation of the person giving the decision;

(d) the details of the fees determined by him or her and the amount of fee which the applicant is required to deposit; and

(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged, or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

11. (1) Where a public authority intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Third party information.

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Public Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Public Information Officer shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 15 against the decision.

CHAPTER III

THE CENTRAL INFORMATION COMMISSION

Constitution of
Central
Information
Commission.

12. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of-

(a) the Information Commissioner; and

(b) such number of Deputy Information Commissioners not exceeding ten as may be deemed necessary.

(3) The Information Commissioner and the Deputy Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of

(i) the Prime Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Lok Sabha; and

(iii) the Chief Justice of India.

Explanation.- For the purpose of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of the Opposition.

(4) The general superintendence, direction and management of the affairs of the Commission shall vest in the Information Commissioner who shall be assisted by the Deputy Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The Information Commissioner and the Deputy Information Commissioners shall be persons of eminence in public life with wide knowledge and experience of administration and governance.

(6) The Information Commissioner or a Deputy Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

Term of office
and conditions of
service.

(8) Every Deputy Information Commissioner shall perform his functions within such area as may be specified by the Central Government.

13. (1) The Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that the Central Government may extend the term of five years by one more year if recommended by the Committee referred to in sub-section (3) of section 12:

Provided further that no Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Deputy Information Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:

Provided that every Deputy Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Deputy Information Commissioner is appointed as the Information Commissioner, his term of office shall not be more than five years in aggregate as the Deputy Information Commissioner and the Information Commissioner.

(3) The Information Commissioner or a Deputy Information Commissioner, shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, as oath or affirmation according to the form set out for the purpose in the Schedule.

(4) The Information Commissioner or a Deputy Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Information Commissioner or a Deputy Information Commissioner may be removed in the manner specified under section 14.

(5) The Information Commissioner or a Deputy Information Commissioner shall, on cessation of his office, not be eligible for

(a) any diplomatic assignment, assignment as administrator of a Union territory or such other assignment or appointment which is required by law to be made by the President by warrant under his hand and seal;

(b) further employment to any office of profit under the Government of India or the Government of a State.

(6) The salaries and allowances payable to and other terms and conditions of service of

(a) the Information Commissioner shall be the same as that of a Secretary of the Government of India;

(b) the Deputy Information Commissioner shall be the same as that of a Joint Secretary or an Additional Secretary to the Government of India:

Provided that if the Information Commissioner or a Deputy Information Commissioner, at the time of his appointment is, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Information Commissioner or a Deputy Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Information Commissioner or a Deputy Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Information Commissioner or the Deputy Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and the other conditions of service of the Information Commissioner and the Deputy Information Commissioners shall not be varied to their disadvantage after their appointment

(7) The Central Government shall provide the Information Commissioner and the Deputy Information Commissioners with such officers and employees as may be necessary

for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the other terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

Removal of
Information
Commissioner or
Deputy
Information
Commissioner.

14. (1) Subject to the provisions of sub-section (3), the Information Commissioner or any Deputy Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehavior or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Information Commissioner or any Deputy Information Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Information Commissioner or Deputy Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Information Commissioner or any Deputy Information Commissioner if the Information Commissioner or a Deputy Information Commissioner, as the case may be,

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

(c) engages during his term of office in any paid employment out side the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Information Commissioner or a Deputy Information Commissioner.

(4) If the Information Commissioner or any Deputy Information Commissioner in any way, concerned or interested in any contract. or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and' in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehavior.

Powers and
functions' of
the
Commission.

15. (1) Subject to the provisions of this Act, it shall be the duty of the Commission to receive and inquire into a complaint from any person,- ...

(a) who has been unable to submit a request to a Public Information Officer, either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for forwarding the same to the public authority or the appropriate Government;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable Ie;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Commission is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

5 of 1908.

(4) Notwithstanding anything consistent contained in any other Act of Parliament, the Commission may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

16. (1) Any person who, does not receive a decision within the time specified in sub Appeal section (1) or clause (a) of sub-section (3) of section 8, or is aggrieved by a decision of the Public Information Officer, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Public Information Officer in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Commission:

Provided that the Commission may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred against an order made by the Public Information Officer under section II to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(4) If the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Commission shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the public authority which denied, the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed, of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Commission shall be binding.

(8) In its decision, the Commission has the power to,

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including~

- (i) by providing access to information, if so requested, in a particular form;

- (il) by appointing a Public Information Officer;
- (iii) by publishing certain information or categories~ of information;
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
- (v) by enhancing the provision of training on the right to information for its officials;
- (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under this Act;
- (d) reject the application.

(9) The Commission shall give notice of its decision, including any rights of appeal, on the complainant and the public authority.

(10) The Commission shall decide the appeal in accordance with such procedure as may be prescribed.

(11) An appeal against the decision of the Commission shall lie in the High Court on any point of fact and law."

Penalties,

17. (1) Notwithstanding anything contained in the provisions of section 20, where the Commission at the time of deciding any appeal is of the opinion that the Public Information Officer has persistently failed to provide information without any reasonable cause within the period specified under sub-section (1) of section 7, the Commission may authorise any officer of the Central Government to file a complaint against such Public Information Officer before a Judicial Magistrate of First Class.

(2) Any Public Information Officer who is in default under sub-section (1) shall be liable on conviction to fine which may extend to rupees twenty-five thousand or a term of imprisonment which may extend to five years, or with both.

CHAPTER IV

MISCELLANEOUS

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made there under.

Act to have overriding effect.

19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

19 of 1923.

Bar of jurisdiction of courts.

20. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

Act not to apply to certain organisations.

21.(1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

Provided that the information pertaining to the allegations of corruption shall not be excluded under this sub-section.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting there from any organisation already specified therein and on the

publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

22. (1) The Commission shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the Central Government. Monitoring and reporting.

(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Commission as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state in respect of the year to which the report relates, (a)

the number of requests made to each public authority;

(b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;

(c) the number of appeals referred to the Commission for review, the nature of the appeals and the outcome of the appeals;

(d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;

(e) the amount of charges collected by each public authority under this Act;

(j) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;

(g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation; reform or amendment to this Act or other legislation or common law' or any other matter relevant for operationalising the right to access information.

(4) The Central Government may, as soon as practicable after the end of each year, cause a copy of the report of the Commission referred to sub-section (1) to be laid before each House of Parliament.

(5) If it appears to the Commission that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

23. (f) The Central Government may, to the extent of availability of financial and other resources,-

Central Government to prepare programmes.

(a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;

(b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programme themselves;

(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and

(d) train information Officers of public authorities and or produce relevant training materials for use by the public authorities themselves.

(2) The Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily

comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include-

- (a) the objects of this Act;
- (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Public Information Officer of every public authority appointed under sub-section (1) of section 5;
- (c) the manner and the form in which request for access to an information shall be made to a public authority;
- (d) the assistance available from and the duties' of the Public Information Officers of a public authority under this Act;
- (e) the assistance available from the Commission;
- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
- (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
- (h) the notices regarding fees to be paid in relation to requests for access to an information; and
- (i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The Government must, if necessary, update and publish the guidelines at regular intervals.

24. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules by Central Government.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) intervals at which matters referred to in sub-clauses (I) to (vi) of clause (b) of sub-section (1) of section 4 shall be published;
- (b) the fee payable under sub-section (1) of section 6;
- (c) the fee payable under sub-section (1) of section 7;
- (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (7) of section 13;
- (e) the appellate authority before whom an appeal may be preferred under sub-section (1) of section 15;
- (f) the procedure to be adopted by the Commission in deciding the appeals under sub-section (10) of section 16; and
- (g) any other matter which is required to be, or may be, prescribed.

25. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules by competent authority.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (i) intervals at which matters referred to in sub-clauses (I) to (vi) of clause (b) of sub-section (1) of section 4 shall be published;
- (ii) the fee payable under sub-section (1) of section 6;

(iii) the fee payable under sub-section (1) of section 7; .

(iv) the appellate authority before whom an appeal may be preferred under sub section (1) of section 15; and

(v) any other matter which is required to be, or may be, prescribed.

Laying of rules

26. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised of one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties,

27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of five years from the date of the commencement of this Act. .

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament. 5 of 2003.

Repeal

28. The Freedom of Information Act, 2002 is hereby repealed.

THE SCHEDULE
(See section 16)

INTELLIGENCE AND SECURITY ORGANISATION ESTABLISHED BY THE CENTRAL Government

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards;
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.LD.- CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

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STATEMENT OF OBJECTS AND REASONS

In order to ensure greater and more effective access to information, the Government resolved that the Freedom of Information Act, 2002 enacted by the Parliament needs to be made more progressive, participatory and meaningful. The National Advisory Council deliberated on the issue and suggested certain important changes to be incorporated in the existing Act to ensure smoother and greater access to information. The Government examined the suggestions made by the National Advisory Council and others and decided to make a number of changes in the law.,

The important changes proposed to be incorporated, *inter alia*, include establishment of an appellate machinery with investigating powers to review decisions of the Public Information Officers; penal provisions for failure to provide information as per law; provisions to ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions, and effective mechanism for access to information and disclosure by authorities, etc. In view of significant changes proposed in the existing Act, the Government also decided to repeal the Freedom of Information Act, 2002. The proposed legislation will provide an effective framework for effectuating the right of information recognized under Article 19 of the Constitution of India.

The Bill seeks to achieve the above objects.

NEW DELHI;
The 18th December, 2004 .

SURESH PACHOURI.

Notes Of Clauses

Clause 1 deals with the short title, extend and the commencement of the legislation. The legislation will come into force on the one hundred and twentieth day of its assent by the president. '

Clause 2 defines various words and expressions used in the Bill.

Clause 3 seeks to confer on the citizens a right of access to information held by public authorities.

Clause 4 seeks to entrust a duty on every public authority to maintain records and publish manuals rules, regulations, instructions, etc. in its possession.

Clause 5 provide for designation of Public Information Officers and Assistant Public Information Officers.

Clause 6 specifies the manner in which requests may be made by a citizen to the authority for obtaining the information. It also provide for transferring the request to the other concerned public authority who may hold the information.

Clause 7 lays down specific time limit with in which a public authority shall provide information and the fees to be paid for processing the request and for providing the information.

Clause 8 deals with various categories of information which shall be exempted from disclosure.

Clause 9 empowers the Public Information Officer to reject a request for information where an infringement of a copyright subsisting in a person would be involved.

Clause 10 enable the public authority to severe and provide partial information which falls partly under the exempted categories and partly under the non-exempted categories.

Clause 11 provide for consultation with the third party where the request relates to or has been supplied by a third party and has been treated as confidential by that party.

Clauses 12 to 15 provide for constitution of Central Information Commission, the terms and conditions of service and the powers of the Information Commissioners and the Deputy' Information Commissioners.

Clause 16 seeks to provide for first and second appeals, the first appeals lies with the officer senior in rank to the Public Information Officer and the second appeal may be made to the Commission.

Clause 17 provide for imposition of penalty on a Public Information Officer for persistently failing to provide information with, it any reasonable cause within the specified period. The Commission may authorise any officer of the Central Government to file a complaint against such Public Information Officer before a Judicial Magistrate and on conviction, a penalty upto rupees twenty five thousand, or an imprisonment upto five years, or both, may be imposed.

Clause 18 bars the institution of legal proceedings against any person for things done in good faith under the Act.

Clause 19 seeks to make the legislation overriding in character so that the scheme is not silbverted through the operation .of other enactment.

Clause 20 seeks to bars the jurisdiction of the subordinate courts.

Clause 21 seeks to exempt certain intelligence and security organisations from the purview of the legislation but information pertaining to allegation of corruption, shall, without prejudice to the exemption, be provided.

Clause 22 provide for preparation of an Annual Report by the Commission and laying of such report by the Central Government before each House of Parliament.

Clause 23 seeks to cast an obligation on the central Government to develop and promote schemes for advancement of the information regime.

Clause 24 seeks to empower the Central Government to make rules so as to carry out the provisions of the legislation.

Clause 25 seeks to empower the competent authority to make rules so as to carry out the provisions. of the legislation.

Clause 26 seeks to require the Central Government to lay the rules before each House of Parliament.

Clause 27 empower the Central Government to remove difficulties in giving effect to the provisions of the legislation within a period of two years from the commencement of the legislation.

Clause 28 seeks to repeal the Freedom of Information Act, 2002.

FINANCIAL MEMORANTUM

1. Sub-clauses (1) and 2 of clause 12 provide for constituting the Central Information Commission which shall consist of a Information Commissioner and such number of Deputy Information Commissioners, not exceeding ten, as may be deemed necessary.

2. Sub-clause (7) of clause 13 provides for appointment of officers and employees for assisting the Information Commissioner and the Deputy Information Commissioners as may be necessary for the efficient performance of their functions under the Act

3. An estimated recurring expenditure of rupees one crore eighty six lakhs is likely to be incurred on the salaries of the Information Commissioner, Deputy Information Commissioners and other officers and employees of the Commission.

4. At this stage, it is not possible to give precise details of the expenditure to be incurred on material resources in terms of Office accommodation, vehicles, telephones and other office equipments required by the Commission. Adequate provisions will have to be made in the annual grants of the Commission to meet this expenditure:

5. The Bill does not involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of Clause 21 of the Bill empowers the Central Government, by notification in the Official Gazette, to amend the Schedule for including any other intelligence or security organisation established by the Central Government or omit there from any organisation already specified therein.

Clause 24 of the Bill empowers the Central Government to make rules to carry out the provisions of the Act. Sub-clause (2) of that clause enumerates the matter with respect to which rules may be made under this clause. .

These matters relate to, *inter alia*, the publishing of particulars of public authority, functions and duties of its officers, details of facilities available to citizens for obtaining information, fee payable to obtain an information from a public authority, salaries and allowances payable to and the terms and conditions of service of the officers and other employees, procedure for disposal of appeals and the authority before whom an appeal may be preferred against the decision of Public Information Officer.

Clause 25 of the Bill empowers the competent authority to make rules to carry out the provisions of the Act. These matters relate to, *inter alia*, the fee payable for obtaining the information from the Public Information Officer of a public authority; the appellate authority before whom an appeal may be preferred" against the decision of the Public Information Officer and the procedure to be adopted by the Commission in deciding the appeals.

Clause 27 of the Bill empowers the Central Government by order to remove certain difficulties which may appear to it to be necessary or expedient in giving effect to the provisions of the Act with in a period of two years from the commencement of the Act.

. The matters in respect of which rules and the order may be made are matters of administrative details and procedure and, it is not practicable to make provisions for them in the B ill. The delegation of legislative- power is, therefore, of a normal character.