

THE UNITED REPUBLIC OF TANZANIA

BILL SUPPLEMENT

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THE ACCESS TO INFORMATION ACT, 2015

ARRANGEMENT OF SECTIONS

Section Title

PART I
PRELIMINARY PROVISIONS

1. Short title and commencement.
2. Application.
3. Interpretation.
4. Objectives of the Act.

PART II
RIGHT TO INFORMATION

5. Right to information.
6. Exempt information.

PART III
ACCESS TO INFORMATION
(a) Obligation to provide information

7. Appointment of information officers.
8. Obligation to keep information.
9. Obligation to publish certain information.

(b) Procedure for access to information

10. Application for access to information.
11. Notice where access to information is requested.
12. Access to documents other than under this Act.

13. Transfer of request.
14. Refusal of request.
15. Notice to third parties.
16. Deferral of access.
17. Means of accessing information.
18. Use of information.

(c) Review of decisions by information holders

19. Review of decision.

**PART IV
GENERAL PROVISIONS**

20. Regulations.
21. Fees.
22. Offence of alteration, defacement, blocking or erasure.
23. Protection of a person who makes disclosure.
24. Protection of officers

NOTICE

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dar es Salaam,
3rd February, 2015

OMBENI Y. SEFUE
Secretary to the Cabinet

A BILL

for

An Act to provide for access to information; to define the scope of information the public has the right to access; to promote transparency and accountability of information holders; and to provide for other related matters.

ENACTED by Parliament of the United of Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and
Commencement

1. This Act may be cited as the Access to Information Act, 2015 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Application

2.-(1) This Act shall apply to Mainland Tanzania.
(2) Without prejudice to the provisions of subsection (1), this Act shall apply to:
(a) public authorities;
(b) private bodies registered under any written law which:
(i) utilize public funds; or
(ii) are in possession of information which is of significant public interest due to its relation to the protection of human rights, environment, public

health and safety, exposure of corruption or illegal actions.

Interpretation

3. In this Act, unless the context requires otherwise:

- “Constitution” means the Constitution of the United Republic; 
- “exempt information” means any information, or document containing information, withheld by the information holder in accordance with section 6;
- “information” means any material which communicates facts, opinions, data or any other matter relating to the management, administration, operations or decisions of the information holder, regardless of its form or characteristics;
- “information holder” means a public authority or a private body referred to under section 2 (2);
- “information officer” means an officer of the information holder appointed as such under section 8;
- “Minister” means the Minister responsible for legal affairs;
- “personal information” means information relating to an individual who is directly or indirectly identifiable by name, identification document or through any physical or other characteristics or attributes, but does not include information having a bearing on the public functions of an employee of a public authority or any other person performing a function of a public authority;
- “public authority ” means any authority that is established by or under the Constitution, an Act of Parliament, recognized under any written law as a public office or forms part of any level of the Government.
- “records” include any recorded information regardless of form or medium created, received and maintained by any information holder in the pursuance of its legal obligations or in the transaction of its business and providing evidence of the performance of those obligations or that business.

Objectives of
this Act

4. The objectives of this Act are to:

- (a) give effect to the right of access to information by citizens as provided for by the Constitution;
- (b) require information holders to proactively disclose information and provide to the public information that they hold subject to the provisions of this Act;
- (c) create a framework to facilitate access to information held by

- information holders in compliance with any right protected by the Constitution and any other written law;
- (d) promote routine and systematic information disclosure by information holders in compliance with the principles of accountability, transparency and public participation; and
- (e) provide for the protection of persons who release information of public interest in good faith.

**PART II
RIGHT OF ACCESS TO INFORMATION**

Right to
information

- 5.**-(1) Every person shall have the right of access to information which is under the control of information holders.
- (2) Subject to the provisions of subsection (1), an information holder shall:
- (a) make available to the public or, on request, to any person information which is under its control; and
 - (b) make available to the public or, on request, to any person access to public meetings or to places where information may be obtained.
- (3) For purposes of this section, “person” means a citizen of the United Republic.
- (4) Nothing in this Act shall limit or otherwise restrict any other legislative requirement for a public authority to disclose information.

Exempt
information

- 6.**-(1) Information requested under this Act shall be deemed to be exempt from disclosure if the information holder who control of the information-
- (a) claims an exemption under subsection (2) for all or for any part of the information; and
 - (b) determines, in accordance with this Act, that the disclosure is not justified in the public interest.
- (2) Exempt information may be withheld if the disclosure of such information is likely to-
- (a) undermine the national security of the United Republic;
 - (b) impede due process of law or endanger safety of life of any person;
 - (c) undermine lawful investigations being conducted by a law enforcements;
 - (d) facilitate or encourage the Commision of an offence;

- (e) involve unwarranted invasion of the privacy of an individual, other than an applicant or a person on whose behalf an application has been made;
- (f) infringe commercial interests, including intellectual property rights of that information holder or a third party from whom information was obtained;
- (g) hinder or cause substantial harm to the Government to manage the economy;
- (h) significantly undermine the information holder's ability to give adequate and judicious consideration to a matter of which no final decision has been taken and which remains the subject of active consideration;
- (i) damage the information holder's position in any actual or contemplated legal proceedings, or infringe professional privilege; or
- (j) significantly undermine the operations of Tanzania Broadcasting Corporation.

(3) For purposes of paragraph (a) of subsection (2), information relating to national security includes-

- (a) military strategy, doctrine, capability, capacity or deployment;
- (b) foreign government information with implications on national security;
- (c) intelligence operations or activities, sources or information capabilities, methods or cryptology;
- (d) foreign relations or foreign activities;
- (e) scientific, technology or economic matters relating to national security; or
- (f) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans or protection services relating to national security.

(4) Paragraphs (d) and (e) of subsection (2) shall not apply if a request for information relates to the results of any product or environmental testing, and the information concerned reveals a serious public safety or environmental risk.

(5) Unless the contrary is proved by the information holder, information shall be presumed not to be exempt if the information has been held for a period exceeding thirty years.

(6) Any person who discloses exempt information withheld by the public authority in contravention of this Act, commits an offence and

shall, on conviction, be liable to imprisonment for a term not less than fifteen years.

PART III
ACCESS TO INFORMATION
(a) Obligation to provide information

Appointment of
information
officers

7.-(1) Every information holder shall appoint one or more officers as information officers.

(2) An information officer shall deal with requests for information and render assistance to a person seeking such information.

Obligation to
keep information

8.-(1) Every information holder shall maintain complete records of information that are under the control of such information holder.

(2) For the purpose of subsection (1), the information holder shall maintain every record for a period of not less than thirty years after a date on which the information is generated or a date on which such information came under the control of the information holder.

Obligation to
publish certain
information

9.-(1) Every information holder shall, not later than thirty six months after the commencement of this Act, provide to the public the following -

- (a) a description of its structure, functions, and responsibilities including those of any of its statutory officers or advisory committees;
- (b) a general description of categories of information held by such information holder; and
- (c) a description of all manuals, and similar types of documents in or under this Act.

(2) Subject to the provisions of subsection (1), the statement shall include particulars of the officer to whom requests for official information or particular classes of information shall be sent.

(3) In complying with the provisions of this section, the information holder shall not provide exempt information under this Act.

(4) Failure by the information holder to provide information under subsection (1) shall not prejudicially affect the right of access to information under the control of such information holder.

(5) The information holder-

- (a) shall, from time to time, inform the public on any substantial changes to the information required to be published under

subsection (1); and

- (b) may, at any time, inform the public on any other information, in addition to information required to be published under subsection (1), relating to its functions.

(b) Procedure for access to information

Application for
access to
information

10.-(1) A request for access to information shall be made in writing and addressed to the information holder.

(2) The request for information shall provide sufficient details to enable the information holder to identify the information and shall include name and address of the person requesting the information.

(3) For purposes of subsection (1), a request shall be treated as made in writing where the text of the request-

- (a) is delivered by hand, postal, or transmitted by electronic means;
(b) is received in legible form; and
(c) is capable of being used for subsequent reference.

(4) A person requesting who, because of illiteracy or disability is unable to make a written application for access to information, may make a request orally, and the officer to whom the request is made shall reduce the request into writing in the prescribed form and provide a copy of the written request to the person requesting.

Notice where
access to
information is
requested

11.-(1) Where access to information is requested, the information holder to which the request is made shall, within thirty days after the request is received-

- (a) give written notice to the person who made the request as to whether the information exists and, if it does, whether access to the information or a part thereof shall be given; and
(b) if access is to be given, promptly give the person requesting access to the information or a part thereof in the manner prescribed under this Act.

(2) Where the information holder requires further information in order to identify and locate the information requested, it shall notify the person requesting of the need for such further information within fourteen days of receiving the request for information and, in that case, the period of fourteen days shall be reckoned from the date on which such further information is received.

(3) Where the information holder is satisfied that the information

requested does not exist, such information holder shall inform the person who made the request to that effect.

Access to documents other than under this Act

12. Nothing in this Act shall prevent the information holder from publishing or giving access to documents, otherwise than as required by this Act, where it has the discretion to do so or such information holder is required by law to do so.

Transfer of request

13.-(1) Where the information holder to which a request for information is made considers that another information holder has a greater interest in the information requested, the information holder to which the request was initially made may, within seven days after the request is received, transfer the request to such other information holder and give a written notice of the transfer to the person who made the request.

(2) For the purpose of subsection (1), the period specified in section 11 shall apply to the information holder to which the request is transferred with effect from the date on which the request is transferred.

Refusal of request

14.-(1) Where the information holder refuses to give access to information requested, either in whole or in part, such information holder shall, in writing, notify the person requesting the information of the refusal and shall, in the notification:

- (a) set out reasons for the refusal and all material issues relating to the decision, including the specific provision of this Act and the factors taken into consideration in relation to the public interest;
- (b) inform the person who made the request of the availability of a review by the Commission for Human Rights and Good Governance and the period within which an application for review may be made;
- (c) where the decision is to the effect that the information does not exist, state that a thorough and diligent search was made to locate the information.

(2) Where the information holder, without reasonable cause, fails to give access to information requested within time limits set out in this Act, the information holder shall be deemed to have refused to give access to the information.

Notice to third parties

15.-(1) The information holder in dealing with a request for

access to information shall take all reasonable steps to notify any third party to whom or which any record containing the information requested relates.

(2) The information holder acting under subsection (1) shall notify the third party as soon as reasonably possible and, in any event, within eight days after the request is received.

(3) Notification under subsection (2) shall:

- (a) state that the information holder is in receipt of the request for access to information;
- (b) describe the content of the request;
- (c) furnish the particulars of the the person requesting information; and
- (d) inform the third party of the obligation to provide information.

(4) The provisions of this Act relating to the request for access to information shall apply mutatis mutandis to the third party who received the notice under subsection (1).

Deferral of
access

16.-(1) The information holder may defer the provision of access to information until the happening of a particular event including the taking of some action required by law or some administrative action, or until the expiration of a specified time, where it is reasonable to do so in the public interest or having regard to normal and proper administrative practices.

(2) Where the provision of access to information is deferred, the information holder shall, in writing, inform the person requesting information the reasons for such decision and the period for which the deferment shall operate.

Means of
accessing
information

17.-(1) Access to information may be provided to a person in any of the following forms:

- (a) inspection of the information;
- (b) provision of a copy of the information;
- (c) delivery of a copy of the information in electronic form;
- (d) in the case of an information that is an article or another thing from which sounds or visual images are capable of being reproduced, by making arrangements for the person to hear or view sounds or visual images;
- (e) in the case of an information by which words are recorded in a manner in which they are capable of being reproduced in

the form of sound or in which words are contained in shorthand writing or codified, by provision of a written transcript of the words recorded or contained in the information;

(f) in the case of a person with a sensory disability, by provision of a record in a format that allows the person to read or listen to the record of the information.

(2) Where a person who makes a request has requested access in a particular form, access shall be given in that form.

(3) Where the form of access requested:

(a) contravenes the provisions of the National Security Act;

(b) interferes unreasonably with the operations of the information holder; or

(c) is detrimental to the preservation of the information or having regard to the physical nature of the information it is not appropriate; or

(d) would involve an infringement of a copyright other than a copyright owned by the Government subsisting in the information,

access in that form may be refused and given in another form.

Cap. 47

Use of the
information

18.-(1) Information obtained by a person requesting from the information holder shall not be for public use.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and shall, upon conviction, be liable to imprisonment for a term not less than five years.

(c) Review of decision by information holders

Review of
decision

19.-(1) A person who, having made a request for information, is aggrieved by a decision of the information holder in relation to the request, may apply to the Commission for Human Rights and Good Governance for review of the decision in respect of any of the following:

(a) refusal of access by the information holder to the information requested;

(b) payment of fees or charges which the person considers unreasonable;

(c) failure of the information holder to comply with time limits set out under this Act;

(d) any other matter relating to a request for or access to information made under this Act.

(2) The Commission for Human Rights and Good Governance shall, within thirty days of receiving an application made under subsection (1), determine such application for review in accordance with its own laid down procedures.

(3) Any party aggrieved by the decision of the Commission under subsection (2) may, within thirty days from the date of such decision, apply for judicial review.

PART IV GENERAL PROVISIONS

Regulations **20.** The Minister shall make regulations for the better carrying out of the provisions of this Act.

Fees **21.** The information holder from which a request for access to information has been made may charge a prescribed fee for the provision of the information.

Offence of alteration, defacement, blocking, erasure. **22.** A person who alters, defaces, blocks, erases, destroys or conceals any information held by the information holder, with the intention of preventing the disclosure by such information holder, commits an offence and shall, on conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding twelve months or to both.

Protection of a person who makes disclosure **23.**-(1) A person in the service or employment of any information holder shall not be subject to any legal, administrative or employment related sanctions for releasing information on wrongdoing, or information which would disclose a serious threat to health, safety or the environment, as long as that person acted in good faith and in the reasonable belief that the information was substantially true.

(2) For purposes of subsection (1), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or maladministration regarding the information holder.

Protection of officers **24.** Officers in the service or employment of any information holder shall not be subject to any civil or criminal liability for any act

done or omitted to be done in good faith in the exercise or performance of any power or duty under this Act.

OBJECTS AND REASONS

This Bill proposes for enactment of the Access to Information Act, 2015 with a view to enhancing access to information and promoting transparency and accountability of public authorities and private bodies that are in possession of information which is of significant public interest. Recognizing that access to information is a right bestowed on the citizens of the United Republic of Tanzania, the Bill intends to promote proactive publication, dissemination and access to information by the public in furtherance of that right.

The Bill is divided into Four Parts:

Part I of the Bill contains preliminary provisions which provides for a short title, application and interpretation of words used in the Bill.

Part II of the Bill contains provisions on the right of access to information. Clause 5 requires information holders to provide information to the person requesting such information while Clause 6 makes restrictions for disclosure of certain of information with the intention, among other things, of protecting safety of life of any person or promoting national security of the United Republic.

Part III contains provisions on the access to information. Clause 7 provides for appointment of information officers who shall be liaison officers for information holders on matters relating to dissemination of information. Apart from that, Clause 8 requires information holders to maintain and keep record of information for a period of not less than thirty years from the date on which such information was recorded. Clause 9 intends to impose obligation to every information holder to publish information to the public for easy access of such information by the public.

Moreover, Clause 13 provides for the transfer of an application for information from one information holder to another when it becomes apparent that the information requested for is not in the domain of the information holder to which the application was initially made but is in the possession of another

authority. Also, Clause 14 provides for procedure for information holder to refuse to give access to information requested either in whole or in part and inform the applicant the reasons for such refusal. Furthermore, Clause 19 provides for review of decision in respect of refusal of access to information when a person is aggrieved with the decision of an information holder in relation to request made to that information holder.

Part IV provides for general provisions that include powers of the Minister to make regulations for the better carrying out the provisions of the Bill and offences that may be committed under the proposed legislation. Besides, this Part provides for the fees that will be charged by information holders upon submission of the request for information.

Dar es Salaam,
2nd February, 2015

ASHA-ROSE M. MIGIRO
Minister for Constitutional and Legal Affairs