



User's guide to Karnataka Right to Information Act*

The Karnataka government enacted the Karnataka Right to Information Act, 2000 (KRIA), after a gap of nearly two years the government formulated and notified the Karnataka Right to Information Rules in July 2002. The KRIA operationalises the citizens fundamental right to information guaranteed in Article 19 and 21 of the Indian Constitution by putting in place a system through which citizens can request any information (subject to exception set out in KRIA) from government departments from time to time. It was considered necessary to enact a legislation providing the right of access to information to the citizens so as to promote openness, transparency and accountability in government and to ensure effective participation of people in governance.

What is right to information?

- A Right to have access to information held by the government relating to the rights of individuals. This information could be in the form of records, files, registers, maps, data, drawings, etc.
- A Right to be told something that could affect a person's rights. This means that the government has a positive duty to give certain types of information without waiting to be asked for it. This would include information on issues concerning projects that directly affect the people or the environment, information on health, agriculture, weather conditions, or simply, information about the services provided or the functions performed by various public bodies, etc.

Right to Information not only means the citizens right to ask for information that they want – it also includes more importantly so the duty of public bodies to disclose information *suo moto* (on its own). *For example: if a flyover is being constructed in Bangalore – the public has the right to know, purpose served by the flyover, benefits and negative effects, information regarding the cost of the project, time frame for completion, nature of traffic disruption, information regarding the contractor undertaking the construction and all relevant information that would affect the public should be made known to all. This type of information must be made known to all citizens – it should not be necessary for each citizen to approach the concerned department individually.*

Right to Information – from whom?

- Under KRIA a citizen has the right to access information relating to any matter in respect of the administration or decisions of:
 - all offices of the state government
 - all local authorities e.g.: panchayat, municipal corporation, Bangalore development authority,
 - all authorities created by or under an act of the state legislature e.g.:- universities.
 - any organization or body funded, owned or controlled by the state government.

All the abovementioned bodies have been defined in KRIA as **“public authority”¹**.

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¹ Section 2 (c) ; KRIA cannot be used to obtain information from offices of the central government, any establishment of the armed forces or the paramilitary forces, religious organizations and the High court of Karnataka, tribunals and organizations having status of courts and proceedings are deemed to be judicial proceedings and the secretariat of the Governor of Karnataka.



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Who should a citizen approach to seek information under KRIA?

- Every public authority must have a person whose responsibility it is to deal with requests for information under KRIA – the law calls this person “**competent authority**”².
- Under KRIA the head of an office will be the competent authority – unless some other officer or person has been notified by the State government to be the competent authority. Therefore all applications under the KRIA must be made to either the head of the office or in cases where some other person is notified – to such other person.

What kind of information is available under KRIA?

As stated above right to information means not only the right to seek information that a person requires but also the duty on the part of the public authorities to provide information on their own. If information is to be provided to people it is imperative that there be systems in place in every public authority to help deliver information to the public. KRIA recognizes this and has cast a duty on all public authorities³ to :

- maintain all records as per operational requirements, all records must be properly catalogued and indexed.
- publish the following information at least once a year:
 - particulars of the organization, its functions and duties
 - powers and duties of the officers and employees and procedure followed by them in decision-making.
 - norms set up by the public authority for carrying out its functions
 - details of facilities available to citizens for obtaining information

This information must be available on a notice board in the office of the public authority. The law also says that it is not necessary to publish the above if the same information is included in any other publication, report, booklet or pamphlet, that has been brought out by the Public Authority or there is no change in the information already published during the previous year⁴.
- publish all relevant facts concerning important decisions and policies that affect the public while announcing such decisions and policies.
- before sanctioning or initiating any project or scheme facts available to the public authority or which the public authority feels should be known to the public in general or to persons affected by such project in the interest of democratic principles must be published⁵.

² Section 2(a).

³ Section 3 KRIA.

⁴ Rule 3 KRIA rules, 2002

⁵ KRIA rules do not state where these matters have to be published. The earlier draft of the rules, was more comprehensive since it clearly stated where all publications had to be made. Information regarding projects had to be made available - by a State level public authority in at least one widely circulated newspaper in the regional language; by every District level public authority in a local newspaper, having wide circulation in the District, in the regional language; by every Taluk Panchayat level and Gram Panchayat level public authority through distribution of pamphlets and pasting them for information in



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- make available to the public minutes, records, advice including legal advice, opinions, recommendations given in respect of the executive decisions or policy formulations after the decision is taken or policy formulation is done.

In addition to the list mentioned above the law may from time to time prescribe other information that should be disclosed voluntarily by public authorities.

On what grounds can information be denied under KRIA?

Like all fundamental rights the right to information is not absolute and is subject to certain exceptions. Under KRIA certain category of information can be denied ⁶such as:

- cabinet papers and deliberations of council of ministers, secretaries and other officers in decision-making and policy formulation.
However, Cabinet decisions along with the reasons must be made available. Also, every Government Order issued on the basis of a Cabinet decision must be accompanied by a statement explaining the reasons for and the circumstances under which the decision is taken.
- inter and intra departmental notes, correspondence and papers containing advice or opinion as also of projections and assumptions relating to internal policy analysis:

In addition right to information can be denied on the following grounds:

- prejudicial to sovereignty and integrity of India, security of the State, strategic scientific or economic interest of India or international relations;
- affects public safety and order, may cause incitement to commit an offence, affect fair trial or adjudication of a pending case;
- prejudicial to the assessment or collection of tax, cess, duty or fee or assist in avoidance or evasion of the tax, cess, duty or fee.
- breach of parliament or state legislature⁷;
- trade or commercial secrets protected by law or information that affects legitimate economic and commercial interest or the competitive position of a public authority; or would cause unfair gain or loss to any person;
- helps or facilitate escape from legal custody or affect prison security; or harm the process of investigation or apprehension or prosecution of offenders.

conspicuous places or on notice board in the offices of the public authority. Sadly the rules notified is a much watered down version.

⁶ Sections 4 and 6.

⁷ Before withholding information the competent authority must refer the matter to Legislative Assembly Secretariat or Legislative Council Secretariat, for determination of the issues and act according to the advice rendered by the Secretariat. In computing the 30 time limit for providing information time taken by the Secretariat to decide on the issue is excluded. The decision of the secretariat is final and there is no appeal available against this.



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- information requested is general in nature and is not required to be ordinarily collected by the public authority.
In such a case it is the duty of the competent authority to reframe the request in a manner that will facilitate supply of information.
- information requested is required by law, rules, regulations or orders to be published at a particular time.
- Information is already contained in published material available to the public.
- personal information unconnected with public activity
- invasion of privacy, unless larger public interest is served by disclosure⁸.
- the record, from which the information is to be furnished is not readily available with the public Authority and is pending with the Courts, Lokayuktha , Police or any other authority at the time of the receipt of the application⁹.

⁸ Information relating to returns of assets and liabilities filed by public servant will be available to the public – proviso to Section 6(d) of the Act.

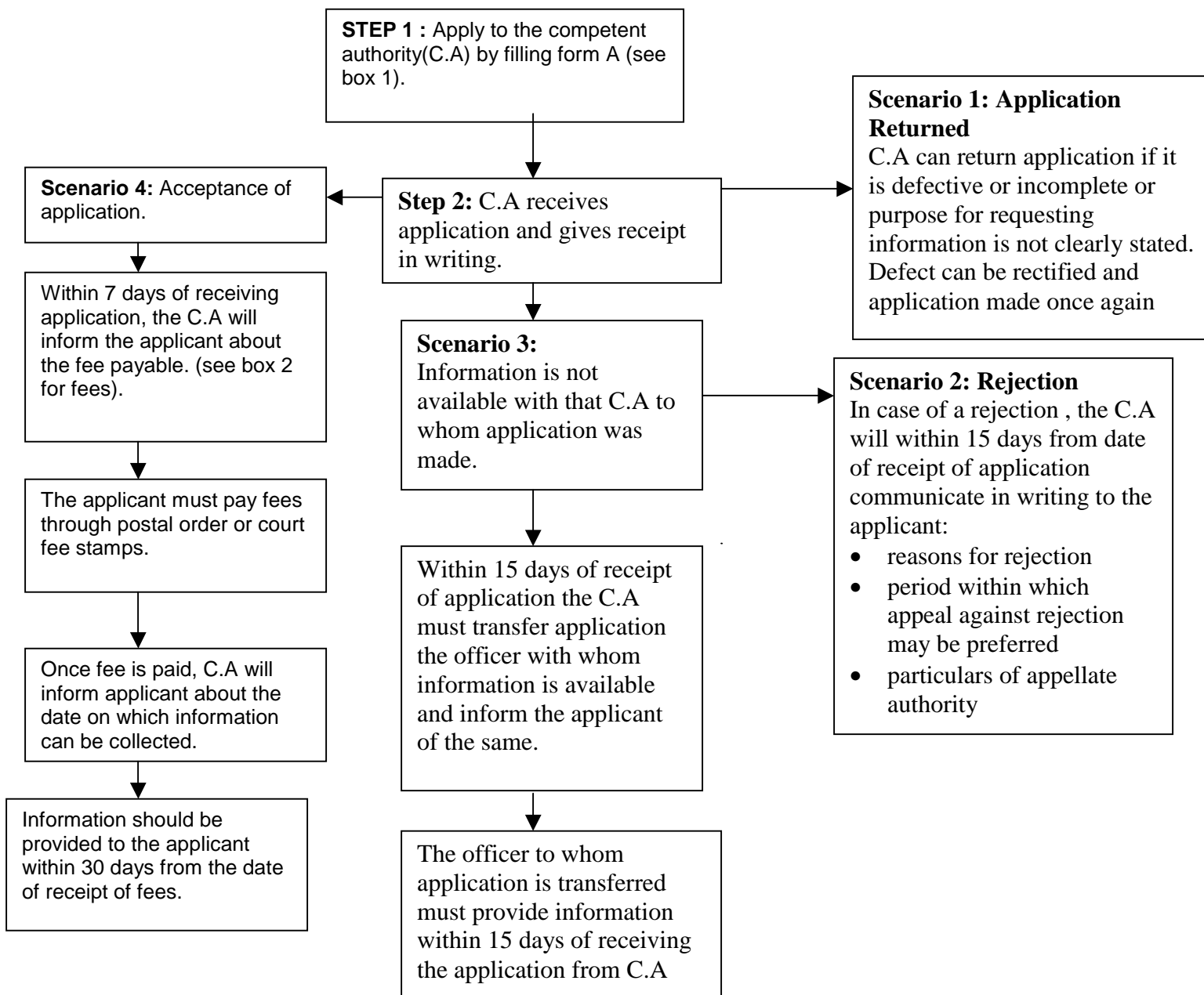
⁹ Proviso to Rule 2(6) of the KRIA rules.



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What is the procedure for obtaining information?

Apart from the voluntary mandatory disclosures listed above, all public authorities have a duty to provide information that citizens ask for from time to time. KRIA contains a detailed process and applications have to be made to the concerned competent authority in this regard¹⁰.



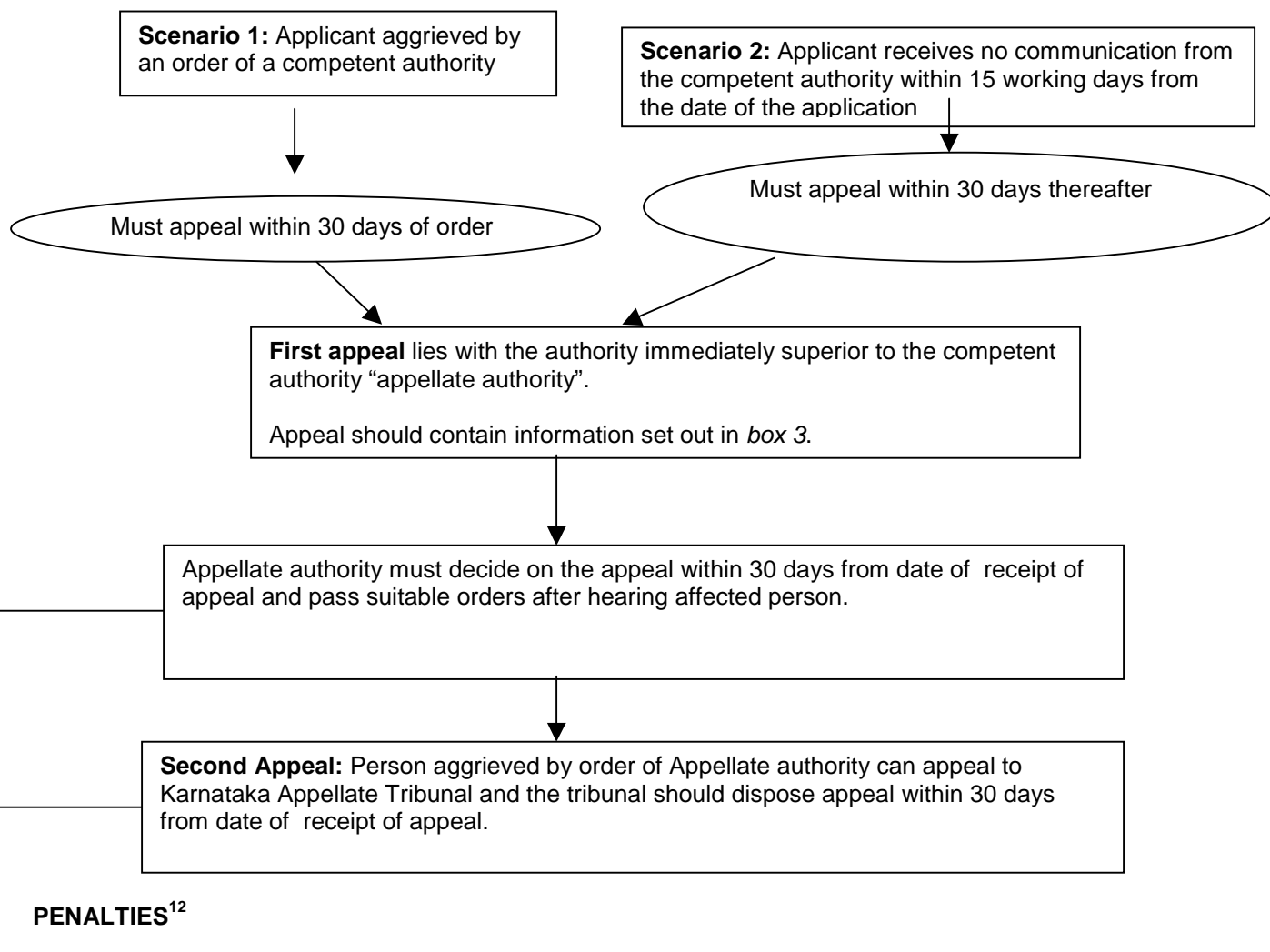
¹⁰ Section 5 of KRIA and Rule 4 of KRIA rules.



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Appeal process and penalties.

The Karnataka right to information Act envisages two scenarios for appeal¹¹:



PENALTIES¹²

If a competent authority fails to provide information without reasonable cause or if information provided is false or if the competent authority believes the information to be false, the appellate authority can :

- impose a penalty not exceeding two thousand rupees and the penalty shall be recoverable from his salary or if no salary is drawn as arrears of land revenue; and
- take appropriate disciplinary action under the service rules applicable to the concerned competent authority.

¹¹ Section 7 of KRIA and Rule 5 of KRIA rules.

¹² Section 9 of KRIA.



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BOX – 1 – Application Form¹³

FORM _ A (see rule 4 (1))	
1) Full name of the applicant	:
2) Address	:
3) Details of the Document required	:
4) Year to which document pertains:	:
5) Purpose for which the information is required and how the applicant is interested in obtaining copies.	:
Receipt No	Date.
Place:	
Date:	Signature of the applicant.

BO X –2 – Fee structure¹⁴

TABLE		
1.	In respect of matters in A4 size paper	For each Folio rupees five.
2.	In case where information is supplied in the floppy of 1.44 MB	Rupees one hundred per floppy.

In the case of maps and plans etc., a reasonable fee shall, be fixed by the competent authority in each case depending upon the cost of labour and material required to be employed.

BOX – 3 Details in appeals¹⁵

Every such appeal shall be accompanied by a copy of the order appealed against and it shall specify:
a. the name and address of the appellant and the particulars regarding the competent authority;
b. the date of receipt of order, if any, of the competent authority appealed against;
c. the grounds of appeal;
d. the relief that the applicant claims.

¹³ Form A – annexure to KRIA rules.

¹⁴ Rule 4(3) of KRIA rules.

¹⁵ Rule 5(2) of KRIA rules.