



Commonwealth Human Rights Initiative

ACCESS TO INFORMATION LAWS IN THE COMMONWEALTH

COMPARATIVE TABLE

CONTENTS

| | | | |
|------------------------------------|------|--------------------------------------|------|
| 1. The Right | p 2 | 10. Time for Compliance | p 18 |
| 2. Applicability/Scope of the Law | p 3 | 11. Urgent Request | p 20 |
| 3. Private Bodies | p 5 | 12. Decision | p 21 |
| 4. suo motu/Proactive Disclosure | p 6 | 13. Review/Appeals | p 23 |
| 5. Request | p 9 | 14. Penalties | p 25 |
| 6. Exemptions | p 11 | 15. Protection for Whistleblowers | p 27 |
| 7. Public Interest Disclosure | p 13 | 16. Reporting and Ongoing Monitoring | p 29 |
| 8. Partial Disclosure/Severability | p 15 | 17. Implementation and Training | p 31 |
| 9. Fees and Waiver | p 16 | | |

Updated by Sohini Paul, July 2011

THE RIGHT

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| <u>Antigua and Barbuda</u> | S.15: Notwithstanding any law to the contrary, every person has the right to obtain, request, access information. Nothing in the Act prevents a public authority from giving access to information where it has the discretion or is required to do so by any written law or court order. |
| <u>Australia</u> | S.11: Every person has right to obtain access to documents. |
| <u>Bangladesh</u> | S. 4: Every citizen has the right to information from the authority, and the authority is duty bound to provide him/her the information. |
| <u>Belize</u> | S.9: Every person has the right to obtain access to documents. |
| <u>Canada</u> | S.4 (1): A Canadian citizen or permanent resident has the right of access, on request, to records under the control of government institution. |
| <u>India</u> | S.1 (1) and 3: All citizens of India have the right to access information. The Act extends to the whole of India except to the State of Jammu and Kashmir. |
| <u>Jamaica</u> | S.2: All members of the public have a general right of access to official documents held by public authorities. |
| <u>Malta</u> | Art 3: Any eligible person has the right of access to documents held by public authorities. |
| <u>New Zealand</u> | S.12(1): Any person in New Zealand is entitled to request a Department or Minister of Crown for official information |
| <u>Nigeria</u> | S. 2: The right of any person to access or request information, whether or not contained in any written form, which is in the custody or possession of any public official, agency or institution. |
| <u>Pakistan</u> | S.3: All citizens of Pakistan have the right to access public records. |
| <u>South Africa</u> | S.11, S.50: Every person has the right to access to information upon request. |
| <u>St Vincent and Grenadines</u> | S.10/11: Every person has the right to access, in accordance with the law, to official documents of a public authority. |
| <u>Trinidad and Tobago</u> | S.11: Members of the public have a general right of access to official documents of public authorities and for matters related thereto. |
| <u>Uganda</u> | S.5 (1): Every citizen has the right of access of information and records in possessions of the State or any public body. |
| <u>United Kingdom</u> | S.1 (1): Any person, upon request, has a right to be informed about the possession of information by the concerned authority and to have the information communicated. |

APPLICABILITY/SCOPE OF THE LAW

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| <u>Antigua and Barbuda</u> | S.3(1)/5/16(3): Public authorities – defined as (a) the Government; (b) a Ministry of the Government and a department, division or unit, by whatever name known, of the Ministry; (c) the Barbuda Council established under S.123 of the Constitution and the Barbuda Local Government Act; The Act binds the Crown. The Act binds private bodies where the information is required for the exercise or protection of any rights. |
| <u>Australia</u> | Part I: Government Agencies and Departments. Some specific agencies are exempt from the applicability of the Act in certain respects. |
| <u>Bangladesh</u> | S.2 (b): Authority means (i) any organization constituted in accordance with the Constitution of the People’s Republic of Bangladesh; (ii) any ministry , division established under the rules of Business made under Article 55(6) of the Constitution of People’s Republic of Bangladesh; (iii) any statutory body or institution established by or under any Act or ordinance; (iv) any private body or institution run on government funding or with the help from the government exchequer ; (v) any private organization or institution run on foreign funding; (vi) any organization or institution that undertakes public functions in accordance with any contract made on behalf of the Government or made with any public organization or institution or (vii) any organization or institution as may be notified in the official gazette from time to time by the Government. |
| <u>Belize</u> | S.3 (1): Ministry or prescribed authority, i.e., local authority, public statutory body. Courts and the Office of the Governor General are not covered by the act. |
| <u>Canada</u> | S.3: Any government department or Ministry or body listed in Schedule 1 of the Act. can be extended to others by Order. |
| <u>India</u> | S.2 (h): Any authority or body established or institution of self-government established or constituted: (i) by or under the Constitution; (ii) by any other law made by Parliament or a State Legislature, (iii) by notification made by an appropriate government and includes (a) any other body owned, controlled or substantially financed and (b) non-government organization substantially financed; by funds provided directly or indirectly by the appropriate Government. |
| <u>Jamaica</u> | S.3: A Ministry, Department, Executive agency, statutory body or any other agency of Government; Parish Council; Council of the Kingston and St Andrew Corporation; any company wholly owned by the government or any Government agencies or in which the Government holds more than 50% of shares. Can be extended by Order to other bodies which provide services of a public nature which are essential to the welfare of the Jamaican society. |
| <u>Malta</u> | Art 2: “public authority” means: (a) the Government, including any ministry or department thereof; (b) a Government agency established in terms of the Public Administration Act or any other law; and (c) any |

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| | body established under any law, or any partnership or other body in which the Government of Malta, a Government agency or any such body as aforesaid has a controlling interest or over which it has effective control. |
| <u>New Zealand</u> | S.2: Any Government Department (as defined in Part I of Schedule 1 to the Ombudsman Act apart from the Parliamentary Counsel Office); Minister of Crown; and any organization named in Part II of the Schedule 1 of the Ombudsman Act and Schedule 1 of this Act. |
| <u>Nigeria</u> | S. 3 (7): Public institutions are all authorities whether executive, legislative or judicial agencies, ministries, and extra-ministerial departments of the government, together with all corporations established by law and all companies in which government has a controlling interest, and also, private companies utilizing public funds, providing public services or performing public functions. |
| <u>Pakistan</u> | S.2: Any Ministry, Division or attached department of the Federal Government; Secretariat of Majlis-e-Shoora (Parliament); any office of any Board, Commission, Council, or other body established by, or under, a Federal law; courts and tribunals. |
| <u>South Africa</u> | S.4: Any Department of Government, body performing public function under any legislation and private bodies where the information is required for the exercise or protection of any rights. |
| <u>St Vincent and Grenadines</u> | S.4: Parliament, committee of Parliament, Cabinet, Ministry, local authority, public statutory corporation or body; body corporate or an incorporated body; embassy, consulate or mission; any other body designated by the Minister. |
| <u>Trinidad and Tobago</u> | S.4: Parliament and some committees; Court of Appeal, High Court, Industrial Court, Tax Appeal Board or court of summary jurisdiction; Cabinet; a Ministry or department/division; municipal corporation; company owned or controlled by the State; a Service Commission; a body corporate or unincorporated entity in relation to any function it exercises on behalf of the State or which is supported, directly or indirectly, by Government funds and over which Government can exercise control. |
| <u>Uganda</u> | S.2: Government ministries, local departments, statutory corporations and bodies, commissions and other Government organs and agencies, unless specifically exempted. |
| <u>United Kingdom</u> | S.3: Public authorities specifically listed in Schedule 1 of the Act or designated as such by an order of the Secretary of State (eg. Bodies which appear to exercise functions of a public nature, or are providing under a contract made with a public authority any service whose provision is a function of that authority); or a publicly owned company. |

PRIVATE BODIES

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| <u>Antigua and Barbuda</u> | S.16(3): A person making a request for information to a private body which holds information necessary for the exercise or protection of any right shall, subject only to the relevant provisions of Parts II and IV of this Act, be entitled to have that information communicated to him. |
| <u>Australia</u> | No provisions. |
| <u>Bangladesh</u> | S.2 (b) (v): any private organisation or institution run on foreign funding; (iv) any private organisation or institution run on government funding or with help from the government exchequer; (vi) any organisation or institution that undertakes public functions in accordance with any contract made on behalf of the Government or made with any public organisation or institution. |
| <u>Belize</u> | No provisions. |
| <u>Canada</u> | No provisions. |
| <u>India</u> | S.2 (h): Includes (a) any other body owned, controlled or substantially financed and (b) non-government organisation substantially financed; by funds provided directly or indirectly by the appropriate Government. S.2(f) allows citizens to access information about private bodies from the public authorities that regulate or monitor them. |
| <u>Jamaica</u> | S.5 (3): Bodies which provide services of a public nature which are essential to the welfare of the Jamaican society can be covered by the Act by Order. |
| <u>Malta</u> | No Provision. |
| <u>New Zealand</u> | No provisions. |
| <u>Nigeria</u> | S. 3 (7): Public institutions are also private companies utilizing public funds, providing public services or performing public functions. |
| <u>Pakistan</u> | No provisions. |
| <u>South Africa</u> | S.50: A requester must be given access to any record of a private body if that record is required for the exercise or protection of any rights. |
| <u>St Vincent and Grenadines</u> | No provisions. |
| <u>Trinidad and Tobago</u> | S.4: A body corporate or unincorporated entity in relation to any function it exercises on behalf of the State or which is supported, directly or indirectly, by Government funds and over which Government can exercise control. |
| <u>Uganda</u> | No provisions. |
| <u>United Kingdom</u> | S.5(1): Bodies which appear to exercise functions of a public nature, or are providing any service whose provision is a function of an authority under a contract made with that public authority can be covered, by Order of the Secretary of State. |

SUO MOTU/PROACTIVE DISCLOSURE

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| <u>Antigua and Barbuda</u> | S.10(1): Every public authority shall, in the public interest, publish and disseminate in an accessible form, at least annually, basic information including: description of structures, functions, duties, finances; details concerning services provided directly to the public; any direct request or complaints mechanisms regarding acts/failure to act by a body, together with a summary of requests/complaints and the body's response; simple guide re record-keeping systems, types and forms of information held, categories of information published and procedure for requesting information; description of powers and duties of senior officers; procedure followed in making decisions; any regulations, policies, rules, guides or manuals regarding the discharge of its functions; content of all decisions/policies adopted which affect the public, along with reasons, any authoritative interpretations of them, and any important background material; and any mechanisms by the public may make representations or otherwise influence the information or policy or exercise of powers by the public authority. |
| <u>Australia</u> | S.8: Publish, in a form approved by the Minister and in the Agency's annual report: particulars and functions of the agency; procedures for people to participate in policy-making, administration or development of schemes of the Agency; categories of documents; facilities to obtain access to information. Updated annually. Make available for inspection and purchase: manuals or other documents containing interpretations, rules, guidelines, practices, precedents; information relating to entitlements and obligations under schemes. |
| <u>Bangladesh</u> | S.6(1): every authority shall publish and publicise all information pertaining to any decision taken, proceeding or activity executed or proposed by indexing them in such a manner as may easily be accessible to the citizen; (2) In publishing and publicising information under sub-section (1) no authority shall conceal any information or limit it's access; (3) Every authority shall publish a report every year which shall contain the following information- (a) particulars of its organisational structure, activities, responsibility of the officers and employees, and description and process of decision making; (b) lists of all the laws, acts, ordinances, rules, regulations, notifications, directives, manuals of and classification of all information lying with the authority; (c) description of the terms and conditions under which a citizen may get service from the authorities in obtaining any license, permit, grant, consent, approval or other benefits and of such conditions that require the authority to make transactions or enter into agreements with him; (d) particulars of facilities ensuring right to information and the full name and designation, address, and in cases where applicable, fax number and e-mail address of the assigned officer; (4) if the authority frames any policies or takes any decisions important, it shall publish all such polices and decisions and if necessary explain the reasons and causes in support of such policies and decisions; (5) The report prepared by authority under this section shall, free of charge be made available for public information and its copies shall be shocked for the sale at nominal price; (6) All publications made by the authority shall be made easily available to public at a reasonable price; (7) The authority shall publish |

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| | and publicise matters of public interest through press note or through any other means; (8) The Information commission shall by regulation frame instructions to be followed by the authority for publishing , publicising and obtaining information. |
| <u>Belize</u> | S.6: Publish in the Gazette: particulars and functions of the organisation including decision-making powers, other powers affecting members of the public, particulars of any arrangements for consultation with or representations in relation to the formulation of policy or administration of, the organisation; and categories of documents. Make available for inspection and purchase: manuals or other documents containing interpretations, rules, guidelines, practices, precedents; information relating to entitlements and obligations under schemes. |
| <u>Canada</u> | S.5: Make available throughout Canada in conformity with the principle that every person is entitled to reasonable access: description and responsibilities of the organisation including details of programs and functions; description of classes of records under its control; description of all manuals used in administering or carrying out its programs; title and address of the officer to whom requests for access should be sent; other useful information relating to the operation of this Act. Updated every 6 months. |
| <u>India</u> | S.4: Particulars of its functions, powers and duties of officers; norms, rules, regulations; list of records available to citizens; details of facilities to get information; procedures following during decision-making process, incl. channels of accountability; list of categories of documents held; arrangements for consultation with or comment by the public; list of boards, councils, committees, etc and whether their meetings are public; directory of officers; monthly remuneration of officers; agency budgets, incl. plans, proposed expenditure and reports on disbursements; manner of execution of subsidy programmes, incl. amounts allocated and beneficiaries; recipients of concessions, permits, licenses; names of PIOs; relevant facts while formulating policies or announcing decisions; reasons for administrative or quasi-judicial decisions; any other information prescribed. Constant endeavor to provide as much information as possible suo motu. Information shall be disseminated as widely as possible and in such form and manner which is easily accessible to the public, including through notice boards, newspapers, public announcements, media, internet, inspection. |
| <u>Jamaica</u> | S.4: Publish: description of subject area of the public authority (PA); list of the departments and agencies of the public authority, subjects handled, locations, opening hours; title and business address of PA's principal officer; list of documents used by the PA authority in making decisions or recommendations re schemes/benefits/ penalties/etc; manuals or documents containing interpretations, rules, guidelines, practices or precedents. Updated every 12 months. |
| <u>Malta</u> | Art 17: Publication of information by public authorities to include description of responsibilities, structures and functions; categories of documents held; description of manuals documents of policies, principles, rules etc; statements of information that needs to be made available to the public such as designation of officers along with officers to whom the request can be made. |
| <u>New Zealand</u> | S.20: Publish for each Department: structures, functions and responsibilities; categories of documents; description of all manuals and similar types of documents which contain directions in accordance with which decisions or recommendations are made; information required by public seeking official |

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| | information. When publishing, shall have regard to the need to assist the public to effectively exercise their rights under this Act. Updated every 2 years. |
| <u>Nigeria</u> | S 3: Publish: description of organization and responsibilities of institutions including details of programmes and functions of each branch, division , department; a list of all classes of records; a list of manuals used by employees; a description of documents containing: final opinions and orders in the adjudication of cases; substantive rules; statements and interpretation of policies; final planning policies, recommendations and decisions; factual, inspection reports and studies; receipt or expenditure of public or other funds; names, salaries, titles, and dates of employment of all officers and employees; rights of the state, public institutions or of any private person(s) ; name of every official and the final records of voting in all proceedings of the institution; a list of files containing applications for any contract, permit, grant, licenses or agreement; a list of reports, documents, studies, or publications prepared by independent contractors; list of materials with information relating to any grant or contract made between institutions- public and private; title and address of the appropriate officer of the institution to whom application should be sent. Information shall be widely disseminated through various means including print, electronic and online sources and at offices of such public institutions. |
| <u>Pakistan</u> | S.5: The acts and subordinate legislation such as rules and regulations, notifications, by-laws, manuals, orders having the force of law in Pakistan shall be duly published and made available at a reasonable price. |
| <u>South Africa</u> | S.10: Human Rights Commission to compile in each official language a guide containing easily comprehensible info as may reasonably be required by a person wishing to exercise a right under the Act. S.14: Public bodies to publish in three official languages: description of structure, functions, services; details of info officer and procedures for applying for access; categories of records available; opportunities for consultation; remedies available for an act or failure to act. S.52: Private bodies to publish: contact details for head of body; access procedures; records held by the body; records available under other legislation. Updated at least every 12 months. |
| <u>St Vincent and Grenadines</u> | S.7 Not later than 12 months from the date of availability of forms approved by the Minister, every public authority shall publish particulars of its functions, indicate decision-making powers and other powers affecting members of the public that are involved in those functions, particulars of arrangement of consultation, statement of categories of documents, statement of the material prepared, inspection by public, statement of procedure. |
| <u>Trinidad and Tobago</u> | S.7: Publish in the Gazette and a daily T&T newspaper: particulars of and functions; decision-making and other powers affecting public; arrangements for consultation; categories of documents in its possession; procedure for requesting access; literature available by subscription; listing of all boards, committees, etc established to advise the public authority, whose meetings are open or whose minutes available for inspection; details of any library/reading room available for public use; statement of material prepared under this Part and places material can be inspected/ obtained – S.8(2). Updated every 12 months. |

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| <u>Uganda</u> | S.7: Within 6 months of commencement of the section or setting up of a public body, Information Officer (IO) to compile a manual containing: its description, functions; contact details of its IO and deputy IOs; address for submitting information requests; all procedures to facilitate information request; description of subjects and categories of records held, details of notice on categories of records automatically available; details of services to be rendered to public and how to obtain these services; provisions for a person to participate/influence policy formulation or exercise of powers; details of available remedies in case it fails to act. Updated every two years. |
| <u>United Kingdom</u> | S.19: Public authorities to make their publications available through Publication Scheme formulated by the public authority and approved by the Information Commissioner. The Scheme must specify classes of info which the authority publishes or intends to publish, the manner of publication, if available for charge or free. |

REQUEST

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| <u>Antigua and Barbuda</u> | S.17 (1)-(5): In writing addressed to an official of a public authority or private body and in sufficient detail to facilitate the identification, with reasonable effort, of whether the body holds the information. Reasonable assistance to be given to applicants. Where the applicant is illiterate or disabled, an oral request may be made which the official can reduce into a written application. |
| <u>Australia</u> | S.15 (3): In writing with reasonable information to identify document. Reasonable assistance to be given to applicant. |
| <u>Bangladesh</u> | S.8: Request in writing or through electronic means to the Designated Officer with reasonable assistance to be provided in the case of oral requests. |
| <u>Belize</u> | S.12: In writing with reasonable information to identify document. Where practical, assistance to be given to applicant. |
| <u>Canada</u> | S.6: In writing and must provide sufficient detail to identify the record with reasonable effort. |
| <u>India</u> | S.6: Request in writing or through electronic means to the Public Information Officer with reasonable assistance to be provided in the case of oral requests. |
| <u>Jamaica</u> | S.7: Application in writing or transmitted by telephone or any other electronic means. The public authority shall assist the applicant with their request and acknowledge receipt for each application. |
| <u>Malta</u> | Art 6: Manner in which requests for access shall be made. An applicant's request shall be delivered in writing, by post or electronically to an office of public officer; the applicant must/should provide such information concerning the document as is reasonably necessary to enable a responsible officer of the public authority to identify it; applicant should provide a copy of their Identity card accompanied with prescribed fee; no applicant shall be asked reasons for seeking such information. |
| <u>New Zealand</u> | S.12: Request (does not specify the form, whether written, oral or both) to be made to the Department, Minister or organisation. Must be specified with due particularity. Duty of every Dept, Minister and organisation to give reasonable assistance to a person to make a request and/or direct it to the appropriate authority. |
| <u>Nigeria</u> | S. 4: An application for access to a record or information should be made which is in the custody or possession of any public official, agency or institution. An authorized official of a government or public institution can reduce an oral application into writing in the prescribed form and provide a copy of the written application to the applicant. Illiterate or disabled may make applications through a third party. |
| <u>Pakistan</u> | S.12: Application to the Designated Official in the form prescribed. Applicant must furnish necessary particulars and pay such fee and at such time as may be prescribed. Duty on public body to take necessary steps as may be prescribed to assist any requester. |
| <u>South Africa</u> | S.18: Application in the prescribed form to the Information Officer (public bodies) and private bodies, with |

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| | sufficient details to identify the info and the requester and stating the manner and language of access preferred. Illiterate/disabled persons can make the request orally to be converted into prescribed form by the Officer. There is also a duty to provide help to the requester – S.19. |
| <u>St Vincent and Grenadines</u> | S.13: Request in writing to public authority, identifying the document or providing information reasonably necessary to enable an officer to identify the document, can request for all documents of particular description relating to particular subject matter. S.14: the public authority must take reasonable steps to assist a requester to make an application. |
| <u>Trinidad and Tobago</u> | S.13: Request shall identify the official document, or provide sufficient info to enable designated officer/employee of the public authority who is familiar with the document to identify it with reasonable effort. Reasonable assistance should be provided if necessary – S.14. |
| <u>Uganda</u> | S.11: Request to be made in writing in prescribed form with sufficient details to identify the records/information and the requester, address of the requester, the preferred form of access,. IO to assist illiterate/disabled persons to write down oral requests. General duty on IO to provide reasonable assistance. |
| <u>United Kingdom</u> | S.8: Request to be made in writing to a public authority stating the requester's name, address for correspondence and description of the information requested. Text through electronic means considered to be in writing. Duty to provide reasonable assistance – S.16. |

EXEMPTIONS

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| <p><u>Antigua and Barbuda</u></p> | <p>S.26-33: 8 grounds for exemption S.16: 4 additional grounds for refusal (eg. Document already open to public access where access is subject to a fee; document available for inspection, document which is stored for preservation or safe custody) S.23: 4 additional grounds where request is vexatious, repetitive or unreasonable and where a request would unreasonably affect financial or other resources of a public authority or private body. S.7: Certain bodies specifically exempted, eg. Commission of inquiry (including proceedings and findings); such public authorities or their functions as the Minister may determine by Order; a court or holder of a judicial office; or registry/office of a court and their staff re matters pertaining to administration of the court.</p> |
| <p><u>Australia</u></p> | <p>Part IV: 18 categories of documents exempted. 3 additional grounds for exemption (request would substantially and unreasonably divert resources of the agency; would substantially and unreasonably interfere with the performance of the Minister's functions; and documents cannot be found or do not exist). Ministerial certificates can be issued to exempt certain information.</p> |
| <p><u>Bangladesh</u></p> | <p>S.7 (a) to (t) (20 exemptions): No public authority shall be bound to disclose information in these circumstances. S.32 and Schedule: State Security agencies excluded from giving information except in relation to cases of corruption and human rights violation committed by their officers. Such information will be disclosed only with the approval of the Information Commission.</p> |
| <p><u>Belize</u></p> | <p>Part IV: 12 categories of exemption. 1 additional grounds for exemption (request would interfere unreasonably with the operations of the Ministry or prescribed authority). Ministerial certificates can be issued to exempt certain information.</p> |
| <p><u>Canada</u></p> | <p>S.13 to 27: 12 categories of exemption. 1 additional ground for refusal (info to be published within 90 days).</p> |
| <p><u>India</u></p> | <p>S.8 and 9: 10 exemptions + 1 additional ground for refusal (infringes copyright). S.24 and Schedule 2: Certain specified intelligence and security agencies, except where the Information Commissioner holds that the requested information pertains to allegations of corruption or human rights violations</p> |
| <p><u>Jamaica</u></p> | <p>Part III: 9 categories of exemption. Ministerial certificates can be issued to exempt certain information.</p> |
| <p><u>Malta</u></p> | <p>Art 29 to 33: 5 categories of exemptions- Documents affecting national security, defence or international relations, and Cabinet documents; documents affecting the enforcement of the law and the protection of public safety; documents subject to legal professional privilege or containing material obtained in confidence; documents relating to business affairs, economy and research; documents the disclosure of which would amount to contempt of Parliament or of Court. Art 5: Additionally the Act shall not apply to the documents as mentioned in Art 5 (1) to (3) i.e. information held by local councils, documents transferred to national Archives, info accessible under any other law, info held by commercial partnership in which government has the controlling interest, personal data</p> |

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| | subject to data protection Act, information held by the Office of the Attorney General; the Electoral Commission; the Employment Commission; the Public Service Commission; the National Audit Office; the Security Service; the Broadcasting Authority. |
| <u>New Zealand</u> | Part I: 5 categories of exemptions + 1 exemption for information related to New Zealand's self-governing territories and dependencies. 12 additional categories of exemption which are subject to a public interest override. 7 additional grounds for refusal (eg. Request is frivolous or vexatious, info will soon be publicly available, request requires substantial collation or research, constitutes contempt of court) |
| <u>Nigeria</u> | S. 12/13/15/16/17/18/20/27: 8 categories of exemptions + 3 categories of exempted materials. |
| <u>Pakistan</u> | S.8/15/16/17/18: 4 categories of exemption + 9 exemptions related to the type of record. 5 additional grounds for refusal (eg. Application not in prescribed form; applicant has not furnished necessary particulars or paid prescribed fees; applicant is not entitled to receive such info; required info does not constitute a public record (NB: definition of public records is defined very specifically (ie. Naming types of records))); info already published in Official Gazette). |
| <u>South Africa</u> | Chapter 4: 11 categories of exemption re records of public bodies. 2 additional grounds of refusal (eg. Request is manifestly frivolous or vexatious; work involved in processing the request would substantially and unreasonably divert the resources of the body). 7 categories of exemption re records of private bodies. |
| <u>St Vincent and Grenadines</u> | Part IV S.25 – 34: Documents of ten kinds are exemptions plus additional ground for refusal in S.22: can refuse to give access where processing the request would substantially and unreasonably interfere with the normal operations of the public authority (must take reasonable steps to assist applicant to reformulate application first though). S.36 Minister in consultation with the Public authority in good faith may declare documents which is not within the ambit of S.25-35, to be an exempt document on grounds of national interest. |
| <u>Trinidad and Tobago</u> | Part IV: 11 categories of exemption. 2 additional ground for refusal (access previously requested and denied; processing the request would substantially and unreasonably divert the resources of the public authority). |
| <u>Uganda</u> | Part III: 9 categories of exemption. 1 addition exemption for health records where disclosure would constitute an invasion of privacy – S.21. 4 additional grounds for refusal (if access would result in unreasonable interference with effective administration; be detrimental to the preservation of record; or amount to infringement of copyright – S.20(3)). |
| <u>United Kingdom</u> | Part II: 21 categories of exemption. 5 additional grounds for refusal (info accessible by other means; info intended for future publication) Ministerial certificates can be issued to exempt certain information; vexatious requests; repeated requests; costs of complying with request would exceed fee recovery limits). |

PUBLIC INTEREST DISCLOSURE

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| <u>Antigua and Barbuda</u> | S.24: Public authority may not refuse to indicate whether or not it holds a record, or refuse to communicate information, unless the harm that would result from the refusal outweighs the public interest in the disclosure of that information. |
| <u>Australia</u> | Part IV: 5 categories of exemption are subject to a public interest override (exemptions re: relations with states; financial interests of the Commonwealth; internal working documents; financial documents; documents related to operations of agencies). |
| <u>Bangladesh</u> | No provision. |
| <u>Belize</u> | S.34: No specific public interest override. But general duty on officials to act in good faith to provide maximum access to documents consistent with public interest. |
| <u>Canada</u> | S.20 (6): Public interest override applies only in relation to third party information related to financial, commercial, scientific or technical matters. In these cases, disclosure is permitted if in the public interest as it relates to public health, public safety or protection of the environment and, if the public interest in disclosure clearly outweighs in importance any financial loss or gain to, prejudice to the competitive position of or interference with contractual or other negotiations of a third party. |
| <u>India</u> | S.8(2): But notwithstanding anything in the Official Secrets Act or exemptions, information may still be disclosed if the public interest in disclosure outweighs the harm to protected interests. |
| <u>Jamaica</u> | 2 exemptions are subject to public interest override (advice prepared for and records of deliberations of Cabinet and its committees – S.19; Jamaican national heritage documents – S.21). |
| <u>Malta</u> | No clear provision requiring disclosure of exempt information in public interest. Emphasis is more on non-disclosure to protect public interest. Eg. Art 35(2): A document may be withheld in accordance with the provisions of this Part only if it contains matter in relation to which the public interest that is served by non-disclosure outweighs the public interest in disclosure. |
| <u>New Zealand</u> | Part I: 12 exemptions are subject to a public interest override. |
| <u>Nigeria</u> | 5 exemptions are subject to public interest override. |
| <u>Pakistan</u> | No public interest override. Reverse public interest test included, such that the Government can broadly refuse to disclose any other record from the purview of this Ordinance in the public interest - S.8 (i). |
| <u>South Africa</u> | S.46: Both public and private bodies must disclose information when it reveals evidence of substantial contravention of law or imminent and serious public safety or environment risk AND the public interest in disclosure outweighs the public interest in refusing. |
| <u>St Vincent and Grenadines</u> | S.35: A public authority shall give access to an exempt document where there is reasonable evidence that significant abuse of authority or neglect in the performance of official duty, injustice to individual, danger to the health or safety of an individual or of the public or unauthorised use of public funds has likely to have occurred or in the circumstances where giving access to the document is justified in the public interest with regard to both to any benefit and to any damage that may arise in doing so. |

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| <u>Trinidad and Tobago</u> | S.35: Access to exempt documents will still be provided where there is reasonable evidence that: significant abuse of authority or neglect in the performance of official duty; injustice to an individual; danger to the health or safety of an individual or of the public; or unauthorised use of public funds, has or is likely to have occurred AND giving access to the document is justified in the public interest having regard both to any benefit and to any damage that may arise from doing so. |
| <u>Uganda</u> | S.34: Access to exempt documents provided where: (a) disclosure reveals evidence of substantial contravention or failure to comply with law or serious public safety, public health or environmental risk; and (b) public interest in disclosure is greater than contemplated harm. |
| <u>United Kingdom</u> | S.2: 15 exemptions are qualified by a public interest override whereby access will only be refused where the public interest in maintaining the exemption outweighs the public interest in disclosing the information. |

PARTIAL DISCLOSURE/SEVERABILITY

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| <u>Antigua and Barbuda</u> | S.25: Partial disclosure allowed where exempt information may reasonably be severed from the rest of the information. |
| <u>Australia</u> | S.22: Severance allowed, where reasonably practicable. |
| <u>Bangladesh</u> | S9(9): Severance is allowed, where reasonably possible. |
| <u>Belize</u> | S.19: Severance allowed, where practicable. |
| <u>Canada</u> | S.25: Severance is allowed, where reasonably possible. |
| <u>India</u> | S.10 (1): Information to be given if reasonably severable. |
| <u>Jamaica</u> | S.11: Access will be granted with exempt matter deleted. |
| <u>Malta</u> | Art 13: Deletion of exempt matter or irrelevant material is allowed. |
| <u>New Zealand</u> | S.17: Provide a copy of the document with such deletions or alterations as are necessary. |
| <u>Nigeria</u> | S. 19: Public institution shall disclose ay part of the information that does not contain exempted information. |
| <u>Pakistan</u> | No provisions. |
| <u>South Africa</u> | S.28: Severance is allowed, where exempt information can be reasonably severed. |
| <u>St Vincent and Grenadines</u> | S.18: Severance is allowed where it is practicable for the public authority to grant access to the severed document. |
| <u>Trinidad and Tobago</u> | S.16 (2): Severance allowed, where practicable and it appears the applicant would wish to have access to such a copy. |
| <u>Uganda</u> | S.19: Severance allowed where possible. |
| <u>United Kingdom</u> | No provisions. |

FEES AND WAIVER

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| <u>Antigua and Barbuda</u> | S.20: Providing information may be conditional upon payment of a reasonable fee, which shall not exceed the actual cost of searching for, preparing and communicating information. But there is no fee for requests for personal information or in the public interest and Regulations may be made providing for a fee waiver. No fee will be charged where the cost of collecting a fee would exceed the amount of the fee. |
| <u>Australia</u> | S.29: Fees can be charged for a request for access to a document or the provision of access to a document. Fees can be reduced or waived where imposition of fees would cause financial hardship or where it is in the public interest to do so. |
| <u>Bangladesh</u> | S.8(4): The person making the request shall pay reasonable fee as may be prescribed by the Designated Officer. Waiver prescribed in S.8 (5) The government may, in consultation with the Information Commission, fix the fees for having any information by notification in the official gazette, and, if necessary, may fix the price of information, or as the case may be, may exempt an individual or a class of individuals or any other class from paying such price. |
| <u>Belize</u> | S.15 (1): Allows for imposition of fee which must be paid before access is granted. No provision for fee waiver. |
| <u>Canada</u> | S.11: Applicant may have to pay application fee at the time of request not exceeding \$25, plus an additional amount for processing, production and time invested, as per regulations. Amount can be reduced or waived. |
| <u>India</u> | S.7 (5): Must be reasonable & will not be imposed where the applicant is below the poverty line. Amount to be prescribed. S.7 (6): Information is provided free if the public authority fails to comply with time limits. |
| <u>Jamaica</u> | S.12: No mention of application fee. Applicant shall assume the costs of reproducing the documents. Responsible Minister may waive, reduce or remit the cost if justifiable. |
| <u>Malta</u> | Art. 6 (1) (e) : An applicant's request to a public authority in terms of article 3 must be accompanied by a fee that will be prescribed in the regulations. Art. 9 (5): A public authority may waive any fees payable in respect of a particular application if, in the opinion of the authority- the fee payable is so small and it's not worth collecting; fee that would cause financial hardship to the applicant; disclosure is in public interest; where a public authority fails to meet the time limit. |
| <u>New Zealand</u> | S.15 (2): No mention of application fee. Provides for a reasonable charge to be fixed with regard to the cost of labour and materials involved in making the information available. |
| <u>Nigeria</u> | S. 9: Fees shall be limited to standard charges for document duplication and transcription where necessary. |
| <u>Pakistan</u> | S.12: To be prescribed by the Government. Copy of regulations not yet accessible by CHRI. |
| <u>South Africa</u> | S.22: Application fee as prescribed. Additional fees for reproduction and for search and preparation. Fees |

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| | can be waived by notice in Gazette by the Minister. |
| <u>St Vincent and Grenadines</u> | S.19: Minister may regulate fees for applications; access to the information; manner in which fees are payable, calculated and a maximum amount; any exemptions for any person or category of persons and where the information requested is in public interest. |
| <u>Trinidad and Tobago</u> | S.17: No fee to be charged for making a request for access. Where access is granted, the applicant shall pay the "prescribed fee". Fees shall be commensurate with the cost incurred in making documents available. Where the authority fails to comply with time limits, access is provided free. Where fees are paid but access is still not granted within 7 days, fees will be refunded. |
| <u>Uganda</u> | S.47: Fee can be charged in accordance with regulations framed by the Minister. Regulations may include provisions for fee waiver or reduction. Prescribed fee shall be the fee for actual cost of retrieval and reproduction of information. |
| <u>United Kingdom</u> | S.9: Fee can be charged in accordance with regulations framed by Secretary of State. Regulations may include provisions for fee waiver, set a maximum limit, and advise re manner of calculation. Requests will not be processed until required fees are paid. |

TIME FOR COMPLIANCE

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| <u>Antigua and Barbuda</u> | S.18: From the day of receipt of request, must respond within 20 working days if request approved and fees paid. Can extend compliance period by no more than 40 working days, where request is for large number of records and compliance within 20 working days would unreasonably interfere with the operations of the body. |
| <u>Australia</u> | S.15 (5): From the day of request: - must acknowledge receipt of request within 14 days; - must notify decision within 30 days. |
| <u>Bangladesh</u> | S 9(1): Ordinarily information is provided within 20 working days. S 9(2): Time limit may be extended to 30 days if more than one unit or authority is involved. S9 (3): Reasons for refusal must be communicated within 10 days. S9 (6): Applicant must be informed about additional fee within 5 days. S 9 (8): If the information sought involves third party, the Designated Officer must give notice to the third party within five days. |
| <u>Belize</u> | S.16: No later than 14 days from the date of receipt of the request. |
| <u>Canada</u> | S.7: Written notice of decision to be given within 30 days of receipt of request; and if access is to be given, give the person who made the request access to the record or part thereof. |
| <u>India</u> | S.7: 30 working days for granting or refusing information. S.11 (3): 40 days where confidential third party information has been requested. |
| <u>Jamaica</u> | S.7 (4): Response to be provided as soon as practicable as but not later than 30 days from the receipt of the request. |
| <u>Malta</u> | Art 10: Within 20 working days the authority shall (a) decide whether the request is to be granted , if granted, in what manner and what charge (if any); and (b) inform the applicant accordingly in writing. Time limit may be extended to a maximum of 40 days if the information requested is voluminous or extensive consultation is required to make a decision regards providing access. |
| <u>New Zealand</u> | S.15: Decision to be made and notice of decision to be provided to the applicant as soon as reasonably practicable, and in any case not later than 20 working days after receipt of the request. |
| <u>Nigeria</u> | S. 5: Public institution shall within 7 days of receiving the application, make the information available to the applicant. S. 7: Time limit can be extended for a time not extending 7 days if the application is for a large number of records or consultations are necessary to comply with the application that cannot be completed within the original time limit. |
| <u>Pakistan</u> | S.13: Required information or, as the case may be, a copy of any public record must be provided with 21 days of receipt of the request. |
| <u>South Africa</u> | S.25: Decision to be made and notified within 30 days of receipt of request. |
| <u>St Vincent and Grenadines</u> | S.16: Decision to be notified as soon as practicable but in no case later than 30 days from the date on which the request is made. |

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| | S.21: Possibility to defer access until a certain event or the expiration of a specified time where it is reasonable to do so in public interest or having regard to normal and proper administrative practice. |
| <u>Trinidad and Tobago</u> | S.15: Public authority shall take reasonable steps to enable an applicant to be notified of approval or refusal of his/her request as soon as practicable but not later than 30 days after the day on which the request is made. |
| <u>Uganda</u> | S.16/17: Information Officer/IO shall provide information as soon as reasonably possible and no later than 21 days from date of receipt of request. Original period can be extended for a maximum additional 21 days if request is for large number of records or public body not situated in the same city/town as the IO or both or if requester consents to such extension in writing. |
| <u>United Kingdom</u> | S.10: A public authority must provide information promptly and in any event not later than 20 working days from receipt of the request. |

URGENT REQUEST

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| <u>Antigua and Barbuda</u> | S.18 (2): Must be within 48 hours where request relates to life and liberty of a person. |
| <u>Australia</u> | No provision. |
| <u>Bangladesh</u> | S.9 (4): Despite anything contained in sub-section (1) and (2), if a request made under sub-section (1) of section 8 is relating to the life and death, arrest and release from jail of any person, the officer-in-charge shall provide preliminary information thereof within 24 (twenty-four) hours. |
| <u>Belize</u> | No provision. |
| <u>Canada</u> | No provision. |
| <u>India</u> | S.7 (1): Where the information requested concerns the life and the liberty of a person, it should be provided within 48 hours of receipt of the request. |
| <u>Jamaica</u> | Where a request is urgent, reasons for the urgency must be given. |
| <u>Malta</u> | No provision. |
| <u>New Zealand</u> | S.12 (3): If the applicant notifies that the request is urgent he shall give reasons for the urgency. |
| <u>Nigeria</u> | No provision. |
| <u>Pakistan</u> | No provision. |
| <u>South Africa</u> | No provision. |
| <u>St Vincent and Grenadines</u> | No provision. |
| <u>Trinidad and Tobago</u> | No provision. |
| <u>Uganda</u> | No provision. |
| <u>United Kingdom</u> | No provision. |

DECISION

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| <u>Antigua and Barbuda</u> | S.19: Decision made by an official of the body. (NB: S.9 requires the nomination of Information Officers who MAY be given additional responsibilities for processing applications.) Where access granted, written notice must advise the applicable fee and the form in which the information will be communicated, and once fee paid, information must be communicated forthwith. Where access rejected, written notice must provide adequate reasons for the refusal in relation to any part of the request which is not granted and information re the right to appeal to the Commissioner or to a judicial review. |
| <u>Australia</u> | S.23: Decision made by the responsible Minister or principal officer, or his/her delegate. S.26 (1): Where access is refused, the refusal notice must: (a) state the reasons and facts on which the decision was based; (b) state the name and designation of the person giving the decision; and (c) provide information concerning rights to have the decision reviewed and/or complain to the Ombudsman. |
| <u>Bangladesh</u> | Sec 9: The Designated Officer is competent to make a decision regards access. Written notice of the decision must be given to the applicant. However approval of the Information Commission is required for invoking any of the exemptions. |
| <u>Belize</u> | S.21 (1): Decision made by the responsible Minister or principal officer, or his/her delegate. Where access is refused, the refusal notice must: (a) state the reasons and facts on which the decision was based; (b) state the name and designation of the person giving the decision; and (c) provide information concerning right to have the decision reviewed. |
| <u>Canada</u> | S.10 (1): Decision made by the head of the institution. Where access is refused, the refusal notice must state the right of the applicant to complain to the Information Commissioner. |
| <u>India</u> | S.7 (3) (b) and (8): Decision made by the Public Information Officer. Must give notice concerning right to review re decision on fees and form of access and/or refusal, including reasons for refusal, the period for appealing the decision and the particulars of the appellate authority. |
| <u>Jamaica</u> | S.7 (5): Decision made by the “public authority”. The public authority shall state its decision, the reasons thereof and the options available to an aggrieved applicant. |
| <u>Malta</u> | The public authority decides whether to grant access or not. No specific official is designated to make these decisions. Decision must be communicated in writing. |
| <u>New Zealand</u> | S.15: Decision made by the Department, Minister or organisation to whom request is made. Where access is refused, reason must be given, and if requested, the grounds for the decision, as well as information concerning the applicant’s right, by way of complaint to an Ombudsman, to seek an investigation and review of the refusal. |
| <u>Nigeria</u> | S. 8(1) and (2) : Where the government or public institution refuses to give access to a record or information, the institution shall state in a notice the grounds for refusal, the specific provisions of the Bill that it relates to and that the applicant has a right to challenge the decision refusing access and have it reviewed by a Court. The notification of denial shall have the names, designation and signature, of each person responsible for the denial. |

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| <u>Pakistan</u> | S.13: Designated Official shall record his/her decision in writing and the applicant shall be informed about such decision. |
| <u>South Africa</u> | S.25: Information Officer decides the request for public body and the head of the private body decides for requests to private body. The decision must contain details about access fee, form of access (S.29), right of appeal to court and reasons in case of refusal. |
| <u>St Vincent and Grenadines</u> | S.23: Decision to be made by the chief executive officer of the public authority, or subject to regulations, by an officer of the public authority acting within the scope of authority exercisable by him in accordance by arrangements approved by chief executive officer of public authority. |
| <u>Trinidad and Tobago</u> | S.22: Decision made by the Responsible Minister, Permanent Secretary, Head of Department, Chief Executive Officer or a delegated officer. S.23: Where access is refused, the written refusal notice must: (a) state the reasons and facts on which the decision was based; (b) state the name and designation of the person giving the decision; and (c) provide information concerning rights to appeal to the High Court for judicial review; (d) where the decision is that the doc does not exist or cannot be found, advise of right to complain to the Ombudsman. |
| <u>Uganda</u> | S.16: Decision made by Information Officer/IO to whom request is made/transferred. If request granted, notice sent to requester stating fees payable, form of access + right to lodge appeal against fees payable, form of access granted, and period for lodging appeal. If access is refused, refusal notice must: state the reasons and provisions of Act relied upon and advise of right to lodge internal appeal or application in court against refusal, including details of procedure. |
| <u>United Kingdom</u> | S.17: Decision made by the "public authority". Where access is refused: must state facts, the applicable exemption and reason for application of the exemption; procedures for internal complaints (if any); and information re the right to apply to the Information Commissioner. |

REVIEW/APPEALS

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| <u>Antigua and Barbuda</u> | S.41/42/45/46: A requester may apply in writing to the Information Commissioner for a decision that a public authority or private body has failed to comply with the provisions re requests. The Commissioner shall decide the application within 30 days, giving both parties an opportunity to provide their views in writing. An appeal then lies within 28 days to the High Court. If no appeal is made, the Commissioner's decision becomes binding and failure to carry out the decision is to be treated as contempt of court. |
| <u>Australia</u> | S.54: When the decision is made by an authorised person other than the responsible Minister or the principal officer of the agency, a review lies to an internal appeal to any other appointed person. An appeal then lies to the Administrative Appeals Tribunal, which can make a binding decision. An appeal then lies to the Courts. A complaint can also be made to the Ombudsman (but other rights to review and appeal will be suspended). |
| <u>Bangladesh</u> | S.24(1): Any person who does not receive a decision within the time specified in sub-section (1), (2) and (4) of section 9, or is aggrieved by a decision of the Designated Officer, may, within 30 (thirty) days from the expiry of such period or as the case may be from the receipt of such a decision, prefer an appeal to the Head of the office of the concerned authority. S.25: Direct complaint may be filed with the Information Commission on grounds such as non-appointment of the Designated Officer; refusal of the Officer to accept information requests, non-adherence to time limits; charging unreasonably high fees; denying access to information or obstructing access to information in any manner. |
| <u>Belize</u> | S.36: When the decision is made by an authorised person other than the responsible Minister or the principal officer of the agency, a review lies to an internal appeal to any other appointed person. An appeal then lies to the Ombudsman, who can make a binding decision. An appeal then lies to the Supreme Court. |
| <u>Canada</u> | S.37: Applicants can appeal decisions to the Information Commissioner, who has powers to investigate and make recommendations to the government regarding disclosure. A right of review then lies to the Federal Court (S.41). The Information Commissioner has the power to start an investigation suo motu into any matter relating to requesting or obtaining access, based on reasonable grounds. |
| <u>India</u> | S.19 (1): First internal appeal to the officer senior in rank to the PIO. S.19 (3) Second appeal to the Central or State Information Commissions, which are independent appeal bodies set up under the Act. S.18: Direct complaints to the Commission also possible. S. 23; Jurisdiction of Courts barred prior to the exhaustion of these procedures. Challenge to the decision of the Commission is possible by way of a writ petition under the Constitution. Decisions of the Tribunal may be challenged in the Court of Appeal. |
| <u>Jamaica</u> | Part V: Where the decision is made by someone other than the Minister, the Permanent Secretary or the principal officer, an internal appeal can be made to one of those parties, within 30 days of notification. An appeal then lies to the Appeal Tribunal, which can make binding decisions, within 60 days. |
| <u>Malta</u> | Art 23: Any person may approach the Information and Data Protection Commissioner with a grievance but internal complaints mechanisms must be exhausted first. Commissioner has powers to investigate such matters and issue a decision notice. Any person or public authority may approach the Information and Data |

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| | Protection Tribunal against such decision notices. |
| <u>New Zealand</u> | S.28: Applicants can appeal to the Ombudsman, who has powers to investigate and make recommendations to the Executive. Such recommendations will be complied with as an Order unless the Executive passes an order within 21 days to the contrary. A right of appeal then lies to the High Court and then the Court of Appeals. |
| <u>Nigeria</u> | S. 21: Any applicant who has been denied access to information can apply to the Court (High Court or Federal Court) for a review of the matter within 30 days after the public institution denies or is deemed to have denied the application, or within such further time as the Court may either before or after the expiration of the 30 days fix or allow. |
| <u>Pakistan</u> | S.19: Applicant can file a complaint with the head of the public body within 30 days of notification. "On failing to get the requested information from him within the prescribed time", the applicant may file a complaint with the Mohtasib (Ombudsman) or Federal Tax Ombudsman. |
| <u>South Africa</u> | S.75: Public body: Internal appeal can be made by the applicant or a relevant third party to a specified authority within 60 days of notice. An appeal to the Courts is then available. Private bodies: Appeal to the Courts directly from the decision of the head of the body. |
| <u>St Vincent and Grenadines</u> | S.39: A person aggrieved by a decision of a public authority may apply to the High Court for judicial review. The phrase 'decisions of the public authority' is stated to include situations where the public authority fails to comply with the provisions of the Act. |
| <u>Trinidad and Tobago</u> | S.38A: A person aggrieved by the refusal of a public authority to grant access may within 21 days of receiving notice of the refusal, complain in writing to the Ombudsman. The Ombudsman has only recommendatory powers. A person aggrieved by a decision of a public authority may also apply to the High Court for judicial review of the decision. Application shall be heard by a Judge in Chambers. |
| <u>Uganda</u> | SS.16,17 and 37,38: An internal appeal or an application to the court or a complaint with the Chief Magistrate may be filed for review of any decision made by the IO. If third party is aggrieved by decision of Chief Magistrate with regard to disclosure, an appeal to the High Court may be filed within 21 days after communication of decision. |
| <u>United Kingdom</u> | Part V: The law requires the Secretary of State to issue a Code, which among other things, should provide guidance on setting up internal complaints procedures. Complaint from any such procedures lie to the Information Commissioner, who can make a binding decision. A second appeal lies to the Information Tribunal by either the complainant or the public authority. A third appeal lies to the High Court (England, Wales and Northern Ireland) or Court of Sessions (Scotland). |

PENALTIES

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| <u>Antigua and Barbuda</u> | S.48: A person shall not wilfully obstruct access to any record, obstruct the performance of a public authority under the Act; interfere with the work of the Commissioner; or destroy records without lawful authority. If an offence is committed, the person is liable to summary conviction to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding two years or to both. |
| <u>Australia</u> | No offence or penalties are provided for non-compliance with the Act. However, the review Tribunal can make recommendation regarding payment of costs of appeals (S.66). |
| <u>Bangladesh</u> | S.27: Information Commission may impose monetary penalty on the Designated Officer on grounds such as (a) refusal to receive any request for information or an appeal without assigning any reasons; (b) failure to provide information to the applicant or make decision within the time limits determined by this ordinance; (c) refusal to receive a request or an appeal with mala fide intention; (d) providing wrong, incomplete, confusing and distorted information in place of the information that is sought for; (e) creating impediments in providing information. Penalty could be from a minimum of 50 taka per day. Maximum limit is 5,000 taka. |
| <u>Belize</u> | No offences or penalties are provided for non-compliance with the Act. |
| <u>Canada</u> | S.67: Any person who obstructs the Information Commissioner (or any person acting on his behalf) in the performance of his/her duties is guilty of an offence and liable on summary conviction to a fine not exceeding \$1000. Any person who: destroys, mutilates or alters a record; falsifies or makes a false record; conceals a record; or directs, proposes, counsels or causes any other person to do so, with intent to deny a right of access under the Act, is guilty of an indictable offence and liable to imprisonment for up to 2 years, a fine up to \$10,000 or both; or an offence punishable on summary conviction and liable to imprisonment for up to 6 months or a fine up to \$5,000 or both. |
| <u>India</u> | S.20: Where a Public Information Officer has, without any reasonable cause, refused to receive an application, has not furnished information within time limits, or malafidely denied the request or knowingly gave incorrect, incomplete or misleading information or destroyed information subject to as request or obstructed the process, a penalty of Rs 250 per day will be imposed until the application is received or information furnished. Total penalty not to exceed Rs 25,000. In the above cases, the Information Commission can also recommend disciplinary action against the PIO under the applicable service rules. |
| <u>Jamaica</u> | S.34: Any person who commits an offence under the Act – i.e. they alter or deface, block or erase, destroy or conceal a document with the intention of preventing disclosure of an official document to which a right of access is conferred under the Act – is liable upon summary conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 6 months or both. |
| <u>Malta</u> | Art 27(1): Where a public authority or an officer of such an authority refuses without good reason, or fails to comply with a decision notice or an information notice; or an enforcement notice, it shall be regarded as an offence in terms of sub-article (2) of Article 41 of the Data Protection Act. The Commissioner may levy an administrative fine against the defaulting authority or officer. Actions such as embezzling, destroying, mutilating or purloining a document with the intention of preventing disclosure will be treated |

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| | as criminal offences under Art. 144 of the Criminal Code. These acts will be triable in the appropriate court. |
| <u>New Zealand</u> | No offences or penalties are provided for non-compliance with the Act. |
| <u>Nigeria</u> | S. 8(5) : Where a case of wrongful denial of access is established, the defaulting officer or institution shall on conviction be liable to a fine of N 500,000 (Five hundred thousand Naira). |
| <u>Pakistan</u> | S.21: Any person, who destroys a record which was the subject of a request, or of a complaint with the intention of preventing its disclosure under this Ordinance, commits an offence punishable with imprisonment for a term not exceeding two years, a fine or both. S.20: Where a complaint instituted is found to be malicious, frivolous or vexatious, the complaint may be dismissed by Mohtasib, and fine may be imposed on the complainant up to an amount not exceeding Rs 10,000. |
| <u>South Africa</u> | S.90: Any person intentionally destroying, damaging, altering concealing or falsifying records commits an offence punishable with imprisonment not exceeding two years. |
| <u>St Vincent and Grenadines</u> | No provisions. |
| <u>Trinidad and Tobago</u> | S.42(2): A person who wilfully destroys or damages a record or document required to be maintained and preserved under the law commits an offence and is liable on summary conviction to a fine of \$5,000 and imprisonment for 6 months. S.42(3): A person who knowingly destroys or damages a record or document which is required to be maintained and preserved while a request for access to the record or document is pending commits an offence and is liable on summary conviction to a fine of \$10,000 and imprisonment for 2 years. |
| <u>Uganda</u> | S.46/47: Person guilty of offence of denying access by destroying/altering/concealing/falsifying records shall be penalized by a fine not exceeding 240 currency points or imprisonment not exceeding 3 years or both. For contravention of any of the regulations, Minister may prescribe any penalty not exceeding 240 currency points or imprisonment not exceeding 3 years or both. (NB: 1 currency point is equivalent to 20,000 Uganda Shillings.) |
| <u>United Kingdom</u> | S.77: An employee, officer or person subject to the direction of a public authority who alters, defaces, blocks, erases, destroys or conceals any record held by that public authority intending to prevent the disclosure by that authority commits an offence and is liable on summary conviction to a fine “not exceeding level 5 on the standard scale”. |

PROTECTION FOR WHISTLEBLOWERS

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| <u>Antigua and Barbuda</u> | S.40: Protection to staff of the Information Commissioner's Office for criminal or civil liability, including defamation to some extent, for any act done in good faith under the Act. S.47: Whistleblower protection provided where a person discloses information to the Commissioner or to any other authority on wrongdoing by a public authority if the information was disclosed in good faith and in the reasonable belief that it was substantially true. |
| <u>Australia</u> | S.91: Protection to officials from actions for defamation, breach of confidence and immunity provided against criminal proceedings for bona fide actions in accordance with Act. Detailed scheme for whistleblower protection not provided under this Act. |
| <u>Bangladesh</u> | S.31: No prosecution, suit, or other legal proceedings shall be initiated against the Commission, the Chief Information Commissioner or any Commissioner, officers or employees thereof or Officer in Charge of any authority or any other officer or employee thereof in respect of any information made public or deemed to be made public in good faith under this ordinance or rules or regulations made there under. |
| <u>Belize</u> | S.44: Protection to officials from actions for defamation or breach of confidence and immunity provided against criminal proceedings where access is given in the bona fide belief that access was required by this Act. Detailed scheme for whistleblower protection not provided under this Act. |
| <u>Canada</u> | S.66: No criminal or civil proceedings lie against the head of an institution or the Information Commissioner for anything done in good faith in performance of function under the Act. Information Commissioner has the authority to disclose information relating to the commission of an offence against any law by any govt. officer or employee |
| <u>India</u> | S.21: Protection to officials against suits, prosecution or any other legal proceeding for anything done in good faith under the Act. Detailed scheme for whistleblower protection not provided under this Act. |
| <u>Jamaica</u> | S.33 (2): The person who authorises access in accordance with the Act and any other person concerned in the granting thereof, shall not be guilty of any criminal offence. Detailed scheme for whistleblower protection not provided under this Act. |
| <u>Malta</u> | No Provision. |
| <u>New Zealand</u> | S.48: No civil or criminal proceedings will lie against a person who provides information (or the author of the information) where the information is made available in good faith. Detailed scheme for whistleblower protection not provided under this Act. See the <i>Protected Disclosures Act 2000</i> . |
| <u>Nigeria</u> | S. 28: No civil or criminal proceedings against any officer of any public institution or against any person acting on behalf of a public institution and no proceedings shall lie against such persons, for information disclosed in good faith, for consequences that flow from that disclosure. Detailed scheme for whistleblower protection not provided under this Act. |
| <u>Pakistan</u> | S.22: No suit, prosecution or other legal proceedings shall lie against any person for anything which is |

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| | done in good faith or intended to be done in pursuance with the Ordinance or its Rules. Detailed scheme for whistleblower protection not provided under this Act. |
| <u>South Africa</u> | S.89: No person is criminally or civilly liable for anything done in good faith in the exercise of any power or duty in terms of the Act. Detailed scheme for whistleblower protection not provided under this Act. See the <i>Protected Disclosures Act 2000</i> . |
| <u>St Vincent and Grenadines</u> | S.38: No person can be guilty of a criminal offence for providing access where it was done in the bona fide belief that access was required to be given. |
| <u>Trinidad and Tobago</u> | S.38: No action for defamation, breach of confidence or infringement of copyright may be brought where access to a document has been given in accordance with the requirements of this Act or in good faith, in the belief that it was required to be given in accordance with this Act, unless malice is proved. Detailed scheme for whistleblower protection not provided under this Act. |
| <u>Uganda</u> | S.45: No civil or criminal liability shall lie against any IO/public officer or any person acting under directions of such person for any act done/committed to be done in good faith and in exercise of power/duties under the Act. S.44: Whistleblower protection – No legal, administrative, or employment related sanctions for breach of any obligation for the release of any information shall lie against a person if act is done in good faith. |
| <u>United Kingdom</u> | No action for defamation if info provided to a public authority by a third person which contains defamatory material is released, if publication is made without malice. Detailed scheme for whistleblower protection not provided under this Act. See the Public Interest Disclosures Act 1998. |

REPORTING AND REGULAR MONITORING/REVIEW

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| <u>Antigua and Barbuda</u> | S.37/39: Commissioner shall monitor and report on the compliance by public bodies with their obligations under the Act and make recommendations for reforms to facilitate compliance with the Act. Commissioner shall prepare and submit to the Minister a report on the operations of the Office of the Commissioner and the report shall be laid before the House of Representatives as soon as practicable. |
| <u>Australia</u> | S.93: The Minister in charge of the Act must prepare an annual report on the working of the Act to be laid before each House of Parliament. |
| <u>Bangladesh</u> | S.30: The Information Commission shall by 31 March of every year submit an annual report to the president about activities of the previous year which include – number of request made to authorities, decisions refusing request, number of appeals file, particulars of any disciplinary action, amount of money collected by authorities, description of activities undertaken, reform proposals, number of officers punished by the commission, compensation imposed, description of the regulations made and instructions issued, accounts, expenditure, recommendations. The president shall lay the report before the National parliament. |
| <u>Belize</u> | S.46: The Minister administering the Act must prepare an annual report on the operation of the Act which is to be laid before each House of the National Assembly. |
| <u>Canada</u> | S.38/39: The Information Commissioner must submit an annual report to Parliament on the activities of his/her office. The Commissioner can also submit special reports to the Parliament where necessary. Reports must also be submitted to Parliament by each department head regarding the administration of Act. |
| <u>India</u> | S.25: Information Commissions is required to monitor the Act and produce Annual Reports on the implementation of the Act, including recommendations for improvements. To be forwarded to the appropriate Government for tabling in Parliament. Each Ministry or Department shall, in relation to their public authorities, collect and provide to the Information Commissions such information as needed to comply with their monitoring duties. |
| <u>Jamaica</u> | S.36: The Minister shall as soon as practicable after the end of each year submit a Report of the operation of the Act to both Houses of Parliament. Each public authority shall submit to the Minister, quarterly reports on the matters to be included in the Report. |
| <u>Malta</u> | Art 21(5): Within three months following the end of each calendar year the Commissioner shall prepare and submit to the Minister an annual report on the workings of this Act during that year, and the Minister shall at the first available opportunity cause a copy of the report to be laid on the table of the House of Representatives. Art 23 (3): Without prejudice to articles 22, 24 and 25, the Commissioner may, with the consent or at the request of any public authority, assess whether that authority is following good practice. |
| <u>New Zealand</u> | S.30: No monitoring provisions are included. However, where an Ombudsman has made a report to a body recommending action, but no adequate or appropriate action is taken, the Ombudsman may send a copy of the report and recommendations to the Prime Minister, and may thereafter make such report to |

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| | the House of Representatives on the matter as she/he thinks fit. |
| <u>Nigeria</u> | S. 30: The Attorney General of the Federation shall submit to the National Assembly an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this Bill, the exemption involved in each case, the disposition of such cases, and the cost, fees and penalties assessed. The report shall also have description of the efforts taken by the Ministry of Justice to encourage all government and public institutions to comply with this Act. |
| <u>Pakistan</u> | No provisions. |
| <u>South Africa</u> | S.84: The Human Rights Commission must report annually to the National Assembly on the implementation of the Act in public bodies and may at that time make recommendations regarding the development, improvement, modernisation, reform or amendment of the Act or other legislation having a bearing on access to information. |
| <u>St Vincent and Grenadines</u> | S.40: The Minister responsible for the Act shall prepare a report to Parliament on the operation of the Act as soon as possible after December 31 every year. |
| <u>Trinidad and Tobago</u> | S.40: The Minister responsible for the Act shall annually prepare a report on the operation of the Act lay the Report before each House of the Parliament. Each responsible Minister shall, in relation to the public authorities within his/her portfolio, give the Minister such information as she/he requires to prepare the Report. |
| <u>Uganda</u> | S.43: Each minister shall submit an annual report on whether access was given or not and the reasons for denial to the Parliament. This annual report may be included in the annual policy statement of the Ministry. |
| <u>United Kingdom</u> | S.49 (1): The Information Commissioner (IC) shall submit an annual report on his/her functions before each House of the Parliament. The requirements of the Act and the practice codes are monitored and enforced through the IC. The IC may, with the consent of any public authority, assess whether that authority is following good practice. The IC can make good practice recommendations and issue notices seeking compliance. |

IMPLEMENTATION – PUBLIC EDUCATION, TRAINING FOR OFFICIALS ETC.

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| <u>Antigua and Barbuda</u> | S.13/37: Every public authority shall ensure appropriate training for its officials on the right to information and implementation of the Act. The Information Commissioner shall also undertake or promote training of officials and publicise the requirements the rights and obligations under the Act. |
| <u>Australia</u> | No provisions. |
| <u>Bangladesh</u> | S.13 (5) (m): The Information Commission has functions such as holding events to increase public awareness on the right to information, conducting research, seminars, symposiums, workshops and disseminating the result obtained from the research. S.13 (n): Commission can give the authority, technical and other assistance for better compliance. S.13 (k) & (l): Commission can give advice to the government & other authorities for preservation and implementation of right to information. |
| <u>Belize</u> | No provisions. |
| <u>Canada</u> | No provisions. |
| <u>India</u> | S.26: Where resource are available, appropriate Government must: conduct educational programmes for the public (in particular of disadvantaged communities) on how to exercise rights under the Act and encourage public authorities to do the same; train info officers in public bodies; promote timely and effective dissemination of info by public bodies about their activities. |
| <u>Jamaica</u> | No provisions. |
| <u>Malta</u> | No provisions. |
| <u>New Zealand</u> | No provisions. |
| <u>Nigeria</u> | S. 14: Every government or public institution must ensure the provision of appropriate training for its officials on the public's right to access to information or records held by government or public institutions, as provided for in this Bill and for the effective implementation of this Bill. |
| <u>Pakistan</u> | S.6: Each public body shall endeavour within reasonable time and subject to availability of resources that all records covered by the provisions of this Ordinance are computerised and connected through a network all over the country on different systems so that authorised access to such records is facilitated. |
| <u>South Africa</u> | S.83: Where resource are available, Human Rights Commission must: conduct educational programmes for the public (in particular of disadvantaged communities) on how to exercise rights under the Act and encourage public and private bodies to do the same; train info officers in public bodies; promote timely and effective dissemination of info by public bodies about their activities; on request, assist people to exercise their rights. |
| <u>St Vincent and Grenadines</u> | No provisions. |
| <u>Trinidad and Tobago</u> | No provisions. |
| <u>Uganda</u> | No provisions. |
| <u>United Kingdom</u> | S.47: The Information Commissioner must promote the following of good practice by public authorities |

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| | and arrange for dissemination of info to the public re the operation of this Act, good practice, and other matters within the scope of his functions .The Commissioner shall from time to time consult the Keeper of Public Records about promoting observance by public authorities of the Records Management Code. |
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