

## Draft Right to Information Bill 200\_\_

*An Act to establish a mechanism to secure access to information under the control of the government and public authorities in order to ensure transparency, accountability and good governance in the sphere of public authorities.*

### **PREAMBLE**

- WHEREAS in a democratic society access to information is recognized as a part of the fundamental rights to freedom of expression;
- AND WHEREAS citizens in a democracy should be empowered to understand and exercise their right to information;
- AND WHEREAS without access to information it is not possible to prevent corruption and lack of accountability in the administration of public authorities;
- AND WHEREAS protection of certain classes of information under the control of the Government is necessary for the public interest;
- AND WHEREAS it is necessary to provide for a balance between the two competing interests;
- NOW THEREFORE it is expedient to harmonise the laws restricting access to information and the need for accountability and transparency by allowing access to information under the control of public authorities.

**BE IT THEREFORE ENACTED** by the Parliament of the People's Republic of Bangladesh, as follows: -

### CHAPTER I

#### **1. Short title, extent and commencement:**

- (1) This Act may be called the Right to Information Act, 200\_\_.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force at once save sub-sections (1) of Section 5, sub-section 1 of section 14 etc. \_\_\_\_\_ shall come into force on the 180th day of the enactment of this Act.

#### **2. Definitions:**

In this Act, unless the context otherwise requires,

- (a) "Information" means any material *be it in any form, including any advice, circular, contracts, data, documents, e-mails, file noting, log books, materials, models, memos,*

*opinions, orders, papers, press releases, records, reports, samples, works held in any electronic form, any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, video tape, machine readable record, and any other documentary material regardless of physical form or characteristics, and any copy thereof and any information relating to any private body which can be accessed by a public authority under any other law for the time being in force.*

(b) "Information Officer" means the Public Relation Officer or any other officer or employee of any Public Authority who is designated as the officer responsible for discharging functions and responsibilities under this Act and in the absence of any Public Relation Officer or designated officer or employee the head of the relevant Public Authority or any section, department, directorate, wing, division and administrative unit thereof shall be deemed to be the Information Officer.

(c) "Public Authority" means any authority or body or institution established or constituted:

(i) by or under the Constitution;

(ii) by any other law made by Parliament;

(iii) by notification issued or order made by the Government or any other body having the authority to issue such notification including any body owned, controlled or substantially financed directly or indirectly by the Government; and shall include any Non-government Organisation and political party having allocation of a symbol by the Election Commission; and

(v) bodies that undertake public functions on behalf of the Government and/or under a contract with a Government body in relation to that contract; and

(vi) private bodies where the information is necessary for the exercise or protection of a human right

(d) "Right to information" means the right of access to information and includes inspection, taking notes, and extracts, and obtaining photo copy or certified copies of documents or records, *taking certified samples of materials, obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or any other device of any Public Authority.*

(f) "third party" means a person other than the citizen making a request for information and includes a public authority.

## CHAPTER II

### **3. Right to information:**

(1) Subject to provisions of this Act, every person shall have the right to information *held by or under the control of any Public Authority.*

(2) Every Public Authority shall maintain all its records *in a manner and form which facilitates the right to information under this Act* and to make available to any citizen requesting information from it and shall not withhold any information or limit its availability.

(3) The Information Commission shall develop guidelines on proper record keeping and management which must be followed by all bodies subject to the Act

### **4. Publication of Information by Public Authority:**

(1) Every Public Authority shall cause to be published, *not more than six months after the Act comes into force and thereafter on a periodic basis, not less than once every two years, publication(s) containing:*

- (a) particulars of its organization, functions and duties; the powers and responsibilities of its officers and employees; description of its decision making process and responsibilities, including channels of supervision and accountability; the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (b) statement of the classes and categories of documents and records in its possession;
- (c) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (d) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (e) statement about the conditions upon which citizens can acquire from it any license, permit, grant, allotment, consent, approval or other benefits of any nature or upon which transactions or contracts of any category can be entered with it;
- (f) a directory of its officers and employees;
- (g) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (h) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

- (i) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (j) particulars of recipients of concessions, permits or authorisations granted by it;
- (k) statement about the facilities provided for access to information, including the working hours of a library or reading room, if maintained for public use; and the name, designation and location of the *Public Information Officer* to whom requests for information may be addressed, as well as about appellate/review authorities;
- (l) all relevant facts in the formulation of important policy decisions and announcing decisions that affect the public;
- (m) information on any new project, policy, scheme, programme or enactment of law that may be undertaken by it that may affect people generally or sections of people particularly and which the people concerned must know for the sake of natural justice and promotion of democratic principles;
- (n) information relating to contracts entered into by them, including the objectives of the contract, the expected outcomes, benefits to accrue to the public, goods acquired or rented, the amount of money involved, the name of the contractor(s) or individuals to whom the contract has been awarded and the periods within which the contract is to be completed.
- (o) details in respect of the information, available to or held by it, reduced in an electronic form;
- (p) the names, designations and other particulars of the Public Information Officers;
- (q) such other information as may be prescribed by the Commission.

(2) It shall be the duty of the every officer of a public authority to give reasons for decision to affected or interested persons.

(3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public, including in the form of publicly visible notices and on websites of public authorities where such websites exist.

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

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

## **5. Duties of Information Officers**

- (1) Every Information Officer shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.
- (2) The Information Officer may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.
- (3) Any officer, whose assistance has been sought under sub-section (2), shall render all assistance to the Information Officer seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as an Information Officer.

## **6. Procedure for Access to Information:**

- (1) A citizen desiring to obtain any information from a Public Authority under this Act shall make a request in writing or in any other form including electronic means in English, Bangla or the local language of the area where the request is being made, to *the Information Office* specifying the particulars of the information, document or record and the mode of access, i.e. inspection, copying or taking note of, sought.

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

- (2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.
- (3) The Information Officer receiving a request for information will be required to provide a written acknowledgement of receipt of the request, including the date it was received, the name and contact details of the Information Officer and a receipt for any fees paid.
- (4) Where an application is made to a public authority requesting information-
  - (a) which is held by another public authority; or
  - (b) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer.

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

## **7. Procedure for providing information**

- (1) Subject to section 8, the Information Officer, on receipt of a request under Section (1) shall, as expeditiously as possible, and in any event within not ~~more-less~~ than 30 days of the receipt of the request, either provide the information on receipt of

such fees as may be prescribed or reject the request for any of the reasons specified in sections 8.

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

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

(3) The person requesting the information shall be required to pay the prescribed fee on delivery of the requested information by the Information Officer.

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

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

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable, shall in no case exceed the actual cost of providing the information such as making photocopies or taking print outs and shall be set via regulations at a maximum limit taking into account the principles that fees should not be set so high that they deter applications and that fees should cover only the cost of reproducing the requested information, not the cost of searching for or compiling the requested information;

Provided further that no fee shall be charged from the persons who are indigent as may be determined by the appropriate authority.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Where a request has been rejected under sub-section (1), Information Officer shall

(a) communicate to the person making the request,—

(i) the reasons for such rejection, including the section of the Act relied upon to reject the application and any findings on any material question of fact, referring to the material on which those findings were based;

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

(iii) the person's rights with respect to review of the decision regarding non-disclosure of the information, amount of fee charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any forms that might be required;

(b) Refund any fee that might have been paid by the person

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

### CHAPTER III

#### **8. Exemptions from disclosure of information:**

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any person, \_

- (a) information, disclosure of which may prejudicially affect the sovereignty and integrity of Bangladesh, the security, strategic, scientific or economic interests of the state, or relations with a foreign state or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (f) information received in confidence from a foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Cabinet, Secretaries and other officers:

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

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

- (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the third party has effectively consented to the disclosure of the information or the Information Officer is satisfied that the larger public interest justifies the disclosure of such information,

Provided that the information which cannot be denied to the Parliament shall not be denied to any person.

- (k) disclosure of the information would be contrary to the public interest by reason that the disclosure would be reasonably likely to impair the ability of the Public Authority to obtain similar information in the future for the purpose of administration of a law or the administration of matters administered by the Public Authority.
- (l) the person seeking the information is not a citizen of Bangladesh or not incorporated in Bangladesh.

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

Provided that where any question arises as to the date from which the said period of twenty five years has to be computed, the decision of the Government shall be final, subject to the usual appeals provided for in this Act.

## **9. Rejection of Information**

(1) Without prejudice to the provisions of section 8, an Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the Government;

(2) Subsection (1) of section 9 does not relieve the public authority of complying with its obligations under section 10 of this Act

## **10. Partial access to information:**

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

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

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



- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under subsection (1) of section 19 or the Information Commission time limit, process and any other form of access.

## **11. Public Interest Disclosure**

Notwithstanding the provisions of this Act and any law of Bangladesh to the contrary, a Public Authority shall give access to an exempt document where, in taking account of all the circumstances of the case, to do so is in the public interest, having regard to both any benefit and to any damage that may arise from doing so in matters such as, but not limited to:

- (a) abuse of authority or neglect in the performance of official duty;
- (b) injustice to an individual;
- (c) danger to the health or safety of an individual or of the public; or
- (d) unauthorized use of public funds.

## **CHAPTER IV**

### **The Information Commission**

#### **12. Information Commission :**

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

(2) The Information Commission shall consist of—

- (a) the Chief Information Commissioner; and
- (b) such number of Information Commissioners, not exceeding five, as may be deemed necessary.

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

- (a) a Judge of the Appellate Division, nominated by the Chief Justice, who shall be the Chairperson of the Committee;
- (b) the Chairman, Public Service Commission; and
- (c) the Chairman, University Grant Commission.

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

(5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance and the appointment committee shall strive to achieve a mix of individuals with diverse professional experiences in the composition of the Information Commission as a whole

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

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

### **13. Terms of Office of Chief Information Commissioner and other Commissioners :**

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

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

(2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-seven years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

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

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

(3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the Chief Justice an oath or affirmation according to the form set out for the purpose in the First Schedule.

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

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 16.

#### **14. Salaries and Allowances:**

The salaries and allowances payable to and other terms and conditions of service of —

(a) the Chief Information Commissioner shall be the same as that of a Judge of the Appellate Division;

(b) an Information Commissioner shall be the same as that of a Judge of the High Court Division of the Supreme Court of Bangladesh:

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

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

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

#### **15. Employees of Information Commission:**

The Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

## **16. Removal of Information Commissioners:**

(1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President in the manner applicable in respect of a Judge of the Supreme Court as provided in Article 96 of the Constitution.

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

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

(a) is adjudged an insolvent; or

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

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

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

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

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

## **CHAPTER V**

### **Powers and functions of the Information Commissions and appeal**

## **17. Powers and functions of the Information Commission:**

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

(a) who has been unable to submit a request to a Information Officer either by reason that no such officer has been appointed under this Act, or because the Public Authority has refused to accept his or her application for information;

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

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

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

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

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

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

(3) The Information Commission shall have the power to initiate of its own accord complaints and inquiries, as appropriate, against any public authority or Information Officer; the Information Commission's powers of complaint and investigation will extend to individual cases as well as patterns of non-compliance by any public authority or Information Officer.

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

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(5) The Information Commission may by notification in the official gazette (?) make Rules to carry out the provisions of this Act.

Provided that, without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the cost of the medium or print cost price of the materials to be disseminated under subsection (5) of section 7;

- (b) the salaries and allowances payable to and the terms and conditions of employment of officers and other employees under section 16;
- (c) the procedure to be adopted by the Information Commission in deciding appeals under section 19;
- (d) any other matter which is required to be, or may be, prescribed.

**18. Examination of Record:**

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

**19. Appeal :**

(1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Information Officer, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Information Officer in each public authority:

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

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

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

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

(4) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Information Officer who denied the request.

(5) An appeal under sub-section (1) or sub-section (3) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof for reasons to be recorded in writing.

(6) The decision of the Information Commission shall be binding.

(7) In its decision, the Information Commission has the power to—

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

- (i) by providing access to information, if so requested, in a particular form;
- (ii) by appointing an Information Officer;
- (iii) by publishing certain information or categories of information;
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
- (v) by enhancing the provision of training on the right to information for its officials;
- (vi) by providing it with an annual report in compliance with clause (\_\_\_) of sub-section (\_\_\_) of section \_\_\_;
- (vii) require the public authority to compensate the complainant for any loss or other detriment suffered;

(b) impose any of the penalties provided under this Act;

(c) reject the application.

(8) The Information Commission shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

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

## CHAPTER VI

### 20. Penalty:

(1) Where the Information Commission, at the time of deciding any complaint or appeal is of the opinion that the Information Officer has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (\_\_\_) of section \_\_ or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of taka two hundred and fifty taka each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand taka:

Provided that the Information Officer shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Information Officer.

(2) Where the Information Commission, at the time of deciding any complaint or appeal is of the opinion that the Information Officer has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 6 or malafidely

denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Information Officer under the service rules applicable to him.

**21. Right of legal representation:**

The parties to an appeal may either appear in person or authorize one or more legal practitioners or any of their officers to present their cases before the Information Commission. *To the extent possible, the Commission should operate more like commissions of inquiry searching for the truth rather than promoting adversarial hearings.*

**22. Application of the Limitation Act 1908 (Act IX of 1908):**

Subject to the provisions of this Act, the provisions of the Limitation Act, 1908 (Act IX of 1908) shall, as far as may be applicable, apply to an appeal filed under this Act.

**23. Recovery of penalty and compensation:**

Any penalty or compensation payable under this Act, if not paid, shall be recoverable *from the salary of the public official or as arrears of land revenue under the Public Demands Recovery Act, 1913.*

**24. Indemnity:**

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

**25. Primacy of this Act:**

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

**26. Suit Barred:**

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

**27. Annual Report by the Commission:**

(1) The Information Commission shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the Government and make this report available for public perusal through appropriate means, including through its website, if such a website exists



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

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

(a) the number of requests made to each public authority;

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

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

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

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

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

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

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

(i) The government may, as soon as practicable after the end of each year, cause a copy of the report of the Information Commission referred to in sub-section (1) to be laid before the Parliament.

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

## **28. Provision on Duties of govt:**

The government shall respect and protect the right to information as defined in this Act and support efforts made in good faith by civil society to achieve the objects of this Act.