

Right to Information Bill of Maldives¹

(Unofficial Translation from the Dhivehi Original)

- Introduction and title*
1. (a) This Act shall widen and improve the scope for the citizen's right to information in the Maldives thereby increasing transparency and accountability in the Government. This Act will layout the procedures for individual people to receive and acquire information held by the Government.
 - (b) This Act may be cited as the "Right to Information Act".
- Object*
2. The object of this Act is to grant the rights to every person with respect to the following matters and to define the scope of that right:
 - (a) providing the right of access to information held or maintained by a public authority.
 - (b) providing the scope of the few exemptions whereby the right to information held or maintained by a public authority maybe refused.
 - (c) encourage the wide range publication of information held or maintained by a public authority as much as possible.

¹ *Disclaimer:* This unofficial English translation has been prepared by Commonwealth Human Rights Initiative with the help of Transparency Maldives. No claim is being made regards the authenticity of this translation. This unofficial version has been prepared only for the purpose of analyzing the contents of the Bill originally published in Dhivehi. In case of doubt the expressions used in the original version in Dhivehi must be treated as authentic. The Dhivehi version of this Bill is accessible at: http://www.majlis.gov.mv/di/download/majleehah_husha_helhifaivaa_kantha/Mau%27loom_aath%20hoadhaa%20libigathumuge%20Bill.pdf accessed on 7 June, 2010.

- (d) providing a right to every individual to ensure that information held by a public authority in relation to that individual is complete, accurate and not misleading
- (e) set proper policies to accommodate for the implementation of matters mentioned.

Scope of the Right to Information

- General Right to Information* 3.
- (a) This Act, unless otherwise stated, obligates any public or private authority upon which a request has been made under this Act, to inform, within due course, any person making a request for information, whether it holds the information specified in the request, or from which authority such record can be obtained. Where such record is to be provided within the scope of this Act, the authority upon which the request has been made, must do so within due course, unless otherwise stated.
 - (b) This Act shall not apply to any other law which restricts the access of, or stipulates certain policies under which a record held by a public or a private authority maybe accessed. And this Act shall not limit the opportunity to obtain any information that is otherwise accessible under any other law.

Existence of right to access of information 4.

- (a) Any person who requests for information is entitled to the access of such information in accordance with principles stipulated in this Act. The right of access to a record held by a public authority in accordance with this Act shall be a legally enforceable right available to any person who requests for it.
- (b) Enforceable legal right under subsection (a) of this section shall mean that examination of a record or a document may be requested in accordance with the principles stipulated in this Act or through a judicial authority and a judicial or a legal order granting such access may be obtained and utilized.
- (c) This Act shall not apply upon any law under which a right to access of a record held by a public or a private authority is restricted or limited. This Act shall be applied separately and outside the ambit of such law.

Abolished Government offices

5. Either of the following shall be responsible in relation to documents of an office that has ceased to exist:-
- (a) where functions of an office are assigned to another, responsibility in respect of the documents of that office shall be borne by the assigned office.
 - (b) where the functions of an office are assigned to two or more other offices,

responsibility in respect of the documents of that office shall be borne by whichever of those offices which holds the document in question

- (c) Where the functions of that office have not been assigned to any other office, responsibility in respect of the documents of that office shall be borne by the authority in whose custody the documents lie.

Request for a record

Application of a request for a record 6.

- (a) A request to examine a record of a public or a private authority must be in writing and such request must:
 - i. specify that it is made under this Act.
 - ii. provide such information concerning the document as is reasonably necessary to identify it.
 - iii. specify the purpose of making the request.
 - iv. specify the right that is to be protected or enforced.
 - v. specify an address where documents to be given to the applicant under this Act may be sent.
 - vi. be accompanied by the fee

payable under the rules promulgated by that authority for examination of such document; or give assurance of payment once the authority requests for such a fee.

- (b) Where the person making the request to examine a record is illiterate or is unable to make it in writing as stipulated in subsection (a) of this section, due to a physical incapacity, such persons may make the request orally to the relevant officer of the respective authority. The officer then shall have to put down the request in writing, sign it and provide a copy of it to the person making the request.
- (c) A public authority may, under this Act, prepare and introduce a specific application form for the purpose of making a request. Such an application form, however, shall not be a cause for inconvenience or unreasonable delay in processing a request.
- (d) The requested authority must provide a receipt once it receives a request for a record.

*Time within which to
comply with request to
access*

- 7. (a) Where a request to access a record is made under this Act, the relevant authority must act on the request as promptly as possible and provide such access as soon as may be practicable. That period shall not in any event exceed 30 days.

- (b) Notwithstanding subsection (a), if the requested information is with relevance to a person's liberty is relevant for the protection of a person's life; such information must be provided within 48 hours at the least.
- (c) An authority from which an information has been requested has the discretion to extend the 30 day period, stipulated in subsection (a), for a further 30 days, before the end of that period, if the request involves a lot of information or if the requested information can only be provided after extensive research and finding that information would consume so much time that it may bring to a stop the normal work of that authority.
- (d) Where an authority fails to comply with the periods and the procedures stipulated in subsections (a), (b), and (c), it shall be deemed as a refusal to issue a record for the purposes of this Act.

*Incomplete,
Inaccurate or Unnecessary
request*

- 8. (a) A request to access a record may be declined solely on failure to comply with the requirements of this Act. However, a request may be so declined only after notifying the person requesting for access and asking the applicant to comply with the requirements of the Act and being met with the applicant's failure to do so despite offering the applicant sufficient time and assistance from that office to help the applicant comply with the

requirements of the Act.

- (b) Where a request to access a record under this Act is made improperly to an office and the office which received the request knows the office to which such request must properly be made, then that office shall assist the applicant in directing the request to the proper office.
- (c) Where a request to access a record under this Act is made for no particular purpose, or a response has already been given to such a request, and if there has been no change to the information since then, the authority in question has the discretion to ignore that request.

Transfer of a request from one office to the other

9. (a) An authority in receipt of a request may under the following circumstances transfer the request to another office;
- i. the record to which the request relates is not relevant to the office in receipt of the request and the record is to the knowledge of that authority, held by another authority;
 - ii. the record to which the request relates is held by the authority in receipt of the request but its disclosure may best be made by another authority;
 - iii. another authority consents to the transfer of a request to that authority.

- (b) Where an office transfers a request to access a record to another office, it must notify the applicant of the transfer, specifying the date on which the request was transferred to the other office.
- (c) Where an office in receipt of a request to access a document requires to transfer that request to another office, it must complete the transfer within 7 days of receiving the request.

Data held in sources other than physical documents 10.

Where the request to access certain information is made, and where it is found that the relevant information is not at the time available in discrete written form but is stored in any other source which can be retrieved or downloaded on to discrete written form, the office in receipt of the request shall deal with the request as if it were a request to access a written document. For the purposes of this Act such information will be deemed to be in the form of a written document.

Dealing with a request

Decision as regard requests to access information 11.

- (a) On receiving a request to access any piece of information the office must decide –
 - i. whether the information requested can be given promptly or at a later date or if it is lawful or not to give such information; and
 - ii. whether any charge is applicable to access such

information; and

iii. whether any cost is incurred to grant such access and if the cost is to be reimbursed from the person requesting.

(b) Where an office fails to notify any thing to the applicant who has made a request to access information within 30 days of such request, that office shall for the purposes of this Act be considered to have refused access to such information.

Responding to a request

12. If an application for access to a record is made to an authority, a response to that application must be made in writing as follows;

(a) whether access is to be given, and any charge payable for dealing with the application, and the manner in which access may be granted.

(b) whether access is to be refused and the reason for refusal.

(c) Whether or not the requested information is available from the authority and if the authority cannot inform the applicant of whether the information is available, the reason for it.

(d) If the authority informs that the record exists and declines to grant access to the record, the reason for their decline.

(e) Where an authority responds to an application as stated in subsections (b), (c) and (d) the applicant has the right to

appeal as stipulated in this Act.

Refusal of access

13. (a) An office may refuse access to a request for information if –

i. the request relates to records exempted by this Act, or

ii. the information is otherwise accessible from that office or elsewhere, free of charge or on a payment, or

iii. the information or document is otherwise accessible to the public without any payment and in accordance with the policies and practices of that office; or

iv. the information is available as a matter of course to the public for a payment..

(b) Notwithstanding subsection (a) of this section, where a request for information relates to information in an exempt document and where the document is exempt because it contains a specific piece of information that can be deleted from the document and such deletion would remove it from the ambit of an exempt document under the Act, then office in receipt of the request shall not refuse access to that document, if it is possible to grant access after deleting the exempt matter.

Deferment of access to information

14. A public authority in receipt of a request may defer granting access to a document if:

- (a) Where the document ought to be published under this or another Act and the time for such publication has not arrived at the time request is made; or
- (b) Where the document is prepared for presentation to Parliament and the time for such presentation has not arrived at the time request is made; or
- (c) if the document is prepared to be presented to a certain authority as may be required by law or an ongoing event or a preplanned event and the time for such presentation has not arrived at the time request is made.

Ways in which Access may be granted 15.

- (a) Access to a document may be granted to a person in any one or more of the following ways:
 - i. if the document is in existence, a reasonable opportunity to inspect and study the document, or
 - ii. giving a copy of the record, or
 - iii. if the record can be heard or seen with or without the assistance of another device giving a reasonable opportunity to hear or view the same, or
 - iv. giving a copy of the record
 - v. if record is in a recording, in giving a written transcript of the recording , or

- vi. if the record is in the form of shorthand writing or in coded form providing a decoded or detailed transcript of the same.
- (b) Where an applicant requests access in a particular form as is stated in subsection (a) then access must be granted in that particular form.
- (c) Notwithstanding subsection (b) of this section, access may be granted in a form different from the manner requested if the following is encountered in granting access in the form requested by the applicant –
 - i. if it would substantially and unreasonably divert the resources of the office from being utilized most efficiently, or
 - ii. if it would be detrimental to the preservation of the document in its original form or if it would endanger the current form of the document; or
 - iii. if it would involve an infringement of copyright.
- (d) If access to information is granted in a manner different from the manner in which it is requested as in subsection (c) above, and it involves an increase in the applicable charge, the applicant must then be made to understand the rise in the charge, and access to

information may not be granted unless the applicant consents to receive the information for that increased charge.

- (e) If the record is in more than one language, it shall be provided in a language requested by the applicant. However if the record is in either Dhivehi, English or in both and access is provided in either language it shall be noted as having fulfilled this provision.

Amending a Record

Right to apply to amend records of an office

16. Where after having examined or being given with a copy of a document, the applicant claims under the following circumstances that the document contains information that requires correction, the office shall after verification, amend the records appropriately if –

- (a) The document contains personal information of the applicant;
- (b) That information is or may be used for administrative purposes of that office; and
- (c) That information according to whom it relates is, incorrect, untrue, incomplete, or misleading

Refusal to amend records

17. Where an application is made for amendment of records held by an office, the office in receipt of such application may decide not to amend the records if –

- (a) The office is satisfied that the information to which the application

relates is, complete, correct and not substantially misleading, or

- (b) The office is satisfied that the application to amend the records contains incorrect or misleading information, or
- (c) the procedure for amendment of the information to which the application for amendment relates is specifically provided for in a statute.

Requirement of annotations 18. Where a person makes an application for amendment of records claiming that his personal information containing in the records of that office is incomplete or incorrect and where the office decides not to amend those records, the applicant may apply for an annotation to be included in those records—

- (a) specifying that certain details in the records are incomplete, incorrect, or misleading; or
- (b) Specifying those details which according to that person would make the information complete, correct, or not misleading.

Charging Fees

Fees and charges 19. (a) An authority may charge a fee for granting of access to records. And authority shall have the discretion to amend the fees or charges applicable in respect of granting access to records.

(b) In so determining the applicable fee or charge under subsection (a) every

authority shall give due consideration to the following:-

- i. that the charge or fee payable is commensurate with the cost of providing a record under this Act.
- ii. that no inconvenience is caused to a financially disadvantaged person to obtaining access to records.
- iii. that no fee shall be charged where the requested information relates to the applicant's personal affairs or public interest.

(c) The Commissioner has the discretion to determine the following in assessing the applicable fee;

- i. The manner in which the fee is to be calculated.
- ii. No fee is to be payable in prescribed cases
- iii. That any fee is not to exceed a maximum value.

Exempt Circumstances

Priority to be given to Public Interest 20.

(a) Notwithstanding any part of this section, any authority upon which a request for access of an information has been made shall grant access to that information, where rather than denying,

or refusing to confirm whether it holds the information of the description specified in the request, granting access is more in favor of public interest; and where the interest protected by granting that access is more favorable to the public than the interest protected by refusing access.

(b) Where access to certain records is not granted citing reasons of public interest, the following grounds may not be regarded as justifiable reasons to withhold access to those records:

- i. Records contains such details if disclosed to the public may make it difficult for the government to be answerable;
- ii. Records contains such details that may undermine public confidence in the government;
- iii. Records contain such deletions which may adversely impact the comprehension of the remaining details.

Access of part of a record 21. If a requested record contains information which is exempt under this Act, access of the record shall be granted after removing the exempt information.

Information received in confidence 22. The following information shall under the following circumstances be exempt from the applicability of this Act:

- (a) documents containing information, disclosure of which is an offence under

any law of Maldives.

- (b) Information, disclosure of which could cause action for breach of confidence to be filed against the government, or
- (c) Information, disclosure of which could prevent future communications of such information to the government.
- (d) A record containing following information may, in special circumstances where it appears that the disclosure of that record may not be in the best interest of justice or fairness, such information may be exempted from the applicability of this Act in those circumstances:
 - i. details whose disclosure could have a substantial adverse impact on the ability of government to manage or administer the economy of the state, or
 - ii. details whose premature disclosure could put a person or class of persons to an unfair advantage or disadvantage.
 - iii. information, disclosure of which would prejudice the privilege of a judicial court or that of the Parliament.
 - iv. Information or records of a lawful trial conducted without public access to the trial

- v. Personal or judicial records and(or) information which could harm the dignity or person of a child below 18 years.
- vi. Information or records which could harm the dignity or person or reveal the identity of the victims of sexual abuse or crimes of similar nature, carried out against women or children below 18 years of age.

Personal Information

23. (a) An authority has the discretion to deny access to, or not to confirm whether it holds the information of the description specified in a request, where the information is concerning the personal affairs of a third person.

(b) Subsection (a) does not apply to the following circumstances where;

- i. the third person consents to the granting of access of the information.
- ii. the applicant is the legatee or the successor in shari'ah of the person who's information which is being requested.
- iii. It has been 20 years since the death of the third person.
- iv. the applicant is at the time of

the request or at any time before the request an officer of a public authority and the information requested relates to the applicant's official work.

- Legal professional privilege* 24.
- (a) An authority has the discretion to deny access to, or not to confirm whether it holds the information of the description specified in a request, where the information requested is in respect of a claim to legal professional privilege could be maintained in a court of law or an investigation. However, compliance with this section does not arise where such a claim has been abandoned.
 - (b) The provisions of section 24 (a) shall be applicable to the disclosure of legal advice given by the Attorney General. However compliance with this section does not arise if the receiver of the advice decides to disclose the advice to a third person.
 - (c) Any information regarding an investigation carried out by the parliament, with a role of the parliament or under the order of the parliament must not be disclosed by any public authority unless and otherwise specified by the parliament OR unless the information has already been disclosed during a trial.
 - (d) The existence of information of a

particular person(s) whom will receive a grant/ loan, within the laws governing such matters, and in a budget approved by the parliament shall only be disclosed as specified by the law or the directives of the parliament.

- (e) The exemptions laid out in subsection (a), (b), (c) and (d) would not be applicable to records older than 30 years.

*Information on Business
Affairs and Trade Secrets.*

25. A public authority maybe deny the existence of or access to an information where;

- (a) the information in question has been obtained by a third party with a prior contract for non disclosure; and where that party can bring an action for breach of contract if that information is disclosed.

- (b) the information has been obtained upon a contract for non disclosure and where;

- i. the information contains trade secrets.

- ii. the disclosure of that information would be prejudicial to the commercial or financial interest of the third person.

- (c) due to the nature of the transaction if there is room for either party to expect non disclosure even if the information has been obtained without a contract for non disclosure

- (d) The information has been obtained

from another country or an international organization, and the disclosure of that information would infringe the relations between that country or that organization.

- (e) The record been requested for is a contract between two private parties, which the public authority received during an official work or has to maintain as part of its normal work, and disclosure would compromise personal or financial interests of either party.

Health and Safety

- 26. (a) An authority has the discretion to deny access to, or not to confirm whether it holds the information of the description specified in a request, where; the disclosure of that information would, or would be likely to endanger the life, health or the safety of any individual.

- (b) An authority has the discretion to deny access to, or not to confirm whether it holds the information if the person asking for the information is not the owner of the information or is requesting for the information without the permission of the owner.

Documents relevant to enforcement agencies

- 27. (a) Following documents exempt from the applicability of the Act–
 - i. a document containing details that could prejudice an ongoing investigation of an alleged breach of law; or
 - ii. a document that may expose

the identity of a confidential source of information, or

- iii. a document that exposes information required to be kept confidential in enforcement or administration of a specific piece of legislation; or
- iv. a document that could endanger a person's life or physical safety, or
- v. a document that could prejudice a person's fair trial, or
- vi. a document that could prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating, or dealing with acts constituting breach of law, or
- vii. a document that could prejudice acting in accordance with a lawful method or procedure for protecting public safety or preserving public interest, or
- viii. a document that could endanger the security of a building, structure or vehicle, or
- ix. information that could prejudice a set of rules or procedure for the protection of

persons or property, or

- x. a document that could facilitate a person's escape from lawful custody.

(b) Following documents shall not be exempt from the applicability of the Act—

- i. a document that could reveal that the scope of a law enforcement investigation had exceeded limits imposed by law; or
- ii. a document containing set of general principles adhered to by a law enforcement agency in dealing with alleged breaches of law; or
- iii. a document consisting of a summary on the degree of success achieved in a program for dealing with alleged breaches of law; or
- iv. a document consisting of details generally made known to the person under investigation; or
- v. a document whose disclosure involves a matter of public interest; or

Law Enforcement

28. An authority has the discretion to deny access to, or not to confirm whether it holds the information of the description specified in a

request, where the disclosure of that information would, or would be likely to prejudice;

- (a) the prevention or detection of crime.
- (b) the apprehension or prosecution of offenders.
- (c) the administration of justice
- (d) the assessment or collection of any tax or duty.
- (e) the operation of immigration controls of Maldives.
- (f) the exercise of ascertaining whether a civil claim or a criminal charge or any other legal action is to be taken against a person.

Defense and Security

29. (a) An authority has the discretion to deny access to, or not to confirm whether it holds the information of the description specified in a request, where the disclosure of that information would, or would be likely to prejudice the national defense or security.
- (b) An authority has the discretion to deny access to part of a record, if it was or is decided that that particular part of the record contains information likely to prejudice the national defense or security.

Economical Interest

30. An authority has the discretion to deny access to, or not to confirm whether it holds the information of the description specified in a request, where the disclosure of that information would, or would be likely to prejudice;

- (a) the ability of government to manage the economy of the State.
- (b) the legitimate financial or a commercial interest of a public authority.
- (c) the legitimate financial or a commercial interest of a private authority or individual

Administration and 31.
Formulation of Policy

- (a) An authority has the discretion to deny access to, or not to confirm whether it holds the information of the description specified in a request, where;
 - i. the disclosure of that information would obstruct the formulation of government policy in a manner that achieves its goal.
 - ii. the premature disclosure of the information would be prejudicial to the benefits of administering a policy.
 - iii. the disclosure of the information would hinder the government's policy of freedom of expression.
 - iv. The disclosure of the information would be an obstruction to a test or audit procedure.
- (b) Compliance to subsection (a) shall not apply to research, surveys, examinations and technical information.

32. (a) An authority has the discretion to deny access to, or not to confirm whether it holds the information of the description specified in a request, where the information relates to;
- i. a document prepared for submission to Cabinet; or
 - ii. a document submitted to Cabinet;; or
 - iii. a draft of a document prepared for submission to Cabinet or a copy of a document submitted or prepared for submission to Cabinet; or
 - iv. an official record of Cabinet; or
 - v. a document whose disclosure would involve the disclosure of a Cabinet decision or cause prejudice the confidentiality of Cabinet deliberations.
- (b) Cabinet documents are not exempt in following circumstances –
- i. document consisting of administrative details, financial details, or statistical details which is prepared for submission to Cabinet or for discussion in Cabinet , or
 - ii. a document where 30 years have lapsed since its submission to Cabinet.
- (c) In this section a reference to Cabinet

includes a Cabinet committee or a Cabinet subcommittee.

Time limits 33. Policies set out in sections 27, 28 and 30, shall not be applied to records of 30 years and more.

Dissemination of Information on the Act

How the Act is to be used 34. The Information Commissioner shall prepare in writing and provide for the easy and broad access of information regarding the procedures for access of information under this Act.

Information Officer 35. (a) Every government office shall appoint an information officer, with the responsibility of providing access of information under this Act, and facilitate the providing of information on that officer to the general public.

(b) In addition to the responsibilities stipulated in this Act, the Information Officer shall also be responsible for the following;

- i. Determine policies and guidelines on providing access of information, maintaining and storing records, and encourage following such policies.
- ii. Take the main responsibility of providing access to requested information, provide assistance to person's making the request and deal with complaints relating to access of records.

Proactive disclosure

36. Every office shall take the initiative and publish annually or within the shorter period of time, the following types of documents and shall arrange to provide them without limiting to such documents only.

- (a) the responsibilities, rights, budget details and the framework of the office.
- (b) a detail of direct services provided or is being provided to the public.
- (c) a detail of policies on the procedure for lodging complaints with relation to the work done by the office. And details of the complaints lodged until then.
- (d) a detail which gives an easily understandable explanation of the procedure in maintaining records.
- (e) information held and maintained by the office, the type of information generally published and the procedure to be followed in requesting for information.
- (f) the responsibilities and duties of the officers of authority of the office, the powers and discretions given to them and policy followed in making decisions.
- (g) guidelines, policies, rules, regulations and a manual stipulating the procedures followed in implementing the responsibilities of the office.
- (h) the meaning and a view of the 'big picture' illustrating the decisions made which affect the general public and

reasons for making such decisions.

- (i) A procedure for the public to influence the formulation of policies, criticize and opine on such policies relevant to the work carried out by the office.

Guidelines with regard to the responsibility to publish information

37. Information Commissioner must;

- (a) Determine the maximum and the minimum standard that public authorities must comply with in providing access to information.
- (b) Where requested, give opinion to public authorities with relation to publishing information.

Maintaining records

38.

- (a) Every public authority shall maintain records to facilitate the easy access of information, and follow the guidelines for that purpose.
- (b) Make arrangements to enable a member of the community to seek amendments of records concerning that person's personal affairs.
- (c) The Information Commissioner shall publish within a determinable duration, the general guidelines concerning the granting of access and the maintenance, storage and elimination of records held by public authorities.

Training of Employees

39.

Information Commissioner shall, for the purpose of proper execution of this Act, employ

personnel and train them with regard to the right to information and the policies laid down in this Act.

Reporting to the Information Commissioner 40.

Every office shall, by the initiative of the information officer provide an annual report, containing the following types of information and shall arrange to provide them without limiting to such information only.

- (a) Number of requests made, number of requests responded, number of requests for access of information granted and refused.
- (b) Specification of the section or part of this Act most utilized, where a request for a record had been refused.
- (c) Number of appeals lodged due to refusal of request for an information.
- (d) Number of times fees were charged and the total value of the fees paid.
- (e) Initiatives taken in order to fulfill the responsibility of granting access to information.
- (f) Steps taken and activities managed with regard to maintenance of records.
- (g) Steps taken and activities managed with regard to training of employees.

The Office and the Responsibilities of the Information Commissioner

Appointment

41. (a) Information Commissioner shall be

appointed by the President. The president must ensure that the following is provided for when appointing a person for the post;

- i. opportunity to apply for the post had been provided.
- ii. the process of application had been open and transparent.
- iii. names of the most competitive candidates had been published.

(b) A person with any of the following characteristics shall not be appointed as the Commissioner;

- i. a member of a political party or an employer of such a party.
- ii. a government employee.
- iii. Must not have been a person convicted of theft, criminal breach of trust or misappropriation during the past 05 years.

(c) The tenure of the Commissioner shall be 05 (five) years. And after the completion of the tenure a Commissioner maybe re-appointed for another term. The Commissioner shall be dismissed from office by the President if the president feels that he is incompetent and unable to carry out his duties in an effective manner.

Commissioner shall be independent from government influence in the management and enforcement of matters.

- (b) The Commissioner shall be an independent legal entity with the power to obtain possessions and the power to sue and suit against, and such direct and indirect powers necessary for the implementations of the responsibilities stipulated in this Act.

Remuneration and Expenditures

- 43. The Remuneration of the Commissioner shall be that of a Member of the Human Rights Commission of the Maldives. And the expenditure for accommodation, food and other official expenses must be provided for when the Commissioner is traveling in an official capacity.

Employees

- 44. The Commissioner shall have the discretion to employ personnel and determine remuneration, in consultation with Ministry of Finance and Treasury, and other benefits for purpose of fulfilling the responsibilities of the Commissioner.

General Duties

- 45. In addition to the responsibilities stipulated in this Act, the Commissioner shall have the following discretions;
 - (a) Analyze measure of implementation of this Act by government institutions and make reports.
 - (b) Specify steps that can be taken generally and by particular institutions in order to improve matters relating to publishing information.

- (c) Manage, participate and support the training of government employees for the implementation of this Act.
- (d) Notify the relevant authorities where offences under this Act have been committed.
- (e) Publicize the purpose and the goals of this Act, and the rights afforded to individuals under this Act.

Report

46. The Commissioner shall lay annually before the President, People’s Majilis, Auditor General and the Human Rights Commission of the Maldives a general report on the exercise of his functions, containing audited reports, within 3 (Three) months of the end of each year. And the Commissioner shall have the discretion to lay before the President, People’s Majilis, Auditor General and the Human Rights Commission of the Maldives such other reports from time to time as he sees fit.

Commissioner’s Immunity

47. No civil or criminal liability shall be incurred by the Commissioner or any person to whom powers have been granted by the Commissioner, in respect of any action taken in fulfilling the responsibilities of the Commissioner under this Act. And the information transferred with good faith under this Act, unless proven otherwise, shall possess immunity. No action of defamation maybe brought with respect to such information.

Enforcement by the Commissioner

Lodging Complaints to the Commissioner

48. Any person who has been refused access to information under this Act, in any one of the

following circumstances, has the right to lodge a complaint to the Commissioner, requesting for a decision of non-compliance by the authority in question;

- (a) refusal to confirm, contrary to this Act, whether or not an authority holds an information.
- (b) failure to comply with the stipulated time frames for granting access of information.
- (c) failure to provide proper receipt of an application for a request of access to an information.
- (d) refusal to grant access in contradiction to this Act.
- (e) Increase the amount charged as fees in contradiction to this Act.
- (f) failure to grant access of information under this Act, in the form applied for by the applicant.

Decisions made in relation to complaints lodged to the Commissioner

- 49. (a) The Commissioner shall, after giving due opportunity to respond for both parties, consider and decide on a case relating to a complaint lodged, as the Commissioner sees fit, within at least 30 (Thirty) days of the complaint being lodged.
- (b) Commissioner has the discretion not to accept a lodged complaint in either of the following circumstances;
 - i. pointless complaint; or the

complaint relates to a trivial matter; or the complaint is groundless.

ii. Where it is found that the complainant has not exhausted any complaints procedure of the authority in question.

(c) It is the duty of the authority against whom a complaint is lodged, to prove that that authority has complied with this Act.

(d) In deciding a case under subsection (a) of this section, the Commissioner may;

i. decide that the complaint lodged is baseless.

ii. give notice to the authority to comply with the law.

iii. order the authority to indemnify the complainant for any damages caused.

iv. enforce a fine on the authority where it is proven that the authority in question is deliberately not complying with the law.

(e) The Commissioner shall give notice in writing of his decision to both parties in a case.

Enforcement Notice

50. The Commissioner has the power to order a public authority, in relation to a case, to ;

- (a) appoint an information officer and reappoint and transfer the duties of the information officer if the Commissioner feels that the current officer is incompetent and unable to carry out his duty as an information officer in an effective manner.
- (b) publish a particular information.
- (c) amend the policies of that authority in relation to the maintenance, storage, elimination and the grant of access of information. The police, defense forces and other such, lawful, institutions shall be made exempt from this provision.
- (d) provide a training to the employees of that authority.
- (e) pay a fine.

Power to Investigate

51. (a) In deciding a case, if investigation is necessary, the Commissioner has the power to investigate, procure and summon witnesses.
- (b) In the investigation of a case the Commissioner has the power to procure any document that is not made exempt under this Act. And no information, except for those made exempt under this law, shall be kept from the Commissioner for any reason.

Power to Appeals

52. If a party is unsatisfied with the decision of the Commissioner, that party has the discretion to take the matter to a court of law. And in such a case the burden of proof lies with the party who brought the

action against the Commissioner.

Complying with decisions

53. Where a party against a whom the Commissioner has taken a decision fails either to comply with that decision or appeal that decision within 45 (Forty Five) days after the Commissioner made the decision, the Commissioner may take the matter to the Prosecutor General to take to court on the grounds of non-compliance to a legal order.

Protection from Criminal Liability

54. (a) No liability shall lie in respect of the person who granted access to an information relating to a breach of law or which relates to the protection of health or the safety of a person, even if by doing so that person has breached a law or an administrative policy or his or her employment contract, if that person, in processing the request, had acted in good faith believing that access to those records were necessary to inform the breach of law or for the protection of a person's health or safety and with no other interest in mind.
- (b) No action for defamation or breach of duty of confidentiality may lie against a person in an office who in processing a request to access records under this Act believes in good faith that access may duly be granted to such records under the Act.
- (c) No liability shall lie in respect of the person who granted access to records or the person who assisted in granting access to such records in an office when in processing that request, had acted in

good faith believing that access to those records may duly be granted under the Act.

- (d) No personal liability shall be incurred by any person in respect of any action taken by that person in good faith on behalf of an office and in enforcing the provisions of this Act.

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Immunity

- 55. No criminal or civil suit shall be filed against any person in respect of any action taken by that person in good faith to fulfill his responsibilities under this Act.

Offences

- 56. (a) The following shall be offences;
 - i. obstructing the access of a record in contradiction to this Act.
 - ii. obstructing a duty of a government authority granted under this Act.
 - iii. obstructing the Commissioner from conducting his functions.
 - iv. destruction of a record without obtaining the permission from the Commissioner.
- (b) A judge has the discretion to either sentence a person convicted of an offence under this Act, to fine that person to an amount not exceeding RF 5,000 (Rufiyaa Five Thousand).

General Provisions

Formulating Regulations

57. The Minister, with the advice of the Commissioner, has the power to formulate and implement regulations in relation to the following.

- (a) further guidelines on publishing information.
- (b) trainings of employees.
- (c) reporting to the Commissioner
- (d) giving notices under this Act
- (e) administrative guidelines and procedures necessary to implement this Act.

Translation

58. In enforcing and translating the provisions of this Act, highest priority shall be given to the protection of the right to access of information.

Commencement

59. Public authorities shall comply with the standards and guidelines under this Act and make all preparations necessary for the proper implementation of this Act, as soon as this Act is ratified and published in the Government gazette.

Interpretation

Interpretation

60. In this Act, unless the context otherwise requires:-

“public authority” means any institution belonging to any one of the 3 powers of the State, and which is created under the constitution or any law, or with the authority of the constitution or any law. Or any

authority that performs an official function or a functions stipulated by any law. The judicial courts, tribunals formed under a law and the parliament shall be excluded.

“record” means any type of information which is not the property of a third person and which is held and maintained by a public or a private authority, whether it is stored in any type of source or whether it was created by any one at anytime.

“minister” means the highest authority of the government office with the power to deal with matters stipulated in this Act.

“commissioner” means the Information Commissioner appointed under this Act. Or the institution or person to whom his duties has been handed to.
