

**STAKEHOLDER'S DRAFT
PROPOSALS FOR THE FREEDOM
OF INFORMATION BILL, 2007**

FREEDOM OF INFORMATION BILL, 2007

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FREEDOM OF INFORMATION BILL, 2007

An Act to make provisions for freedom of information, transparent governance, duty of public and private bodies and authorities to disclose information in public interest, the right of access to information, protection of journalistic confidential sources of information and to provide for other related matters.

ENACTED by the Parliament of the United Republic of Tanzania.

Date:.....

PART I PRELIMINARY PROVISIONS

1. Short title and Commencement

This Act may be cited as the Freedom of Information Act, 2007 and shall come into operation on the date as the Minister may by, notice published in the Gazette, appoint.

2. Application

This Act shall apply to Tanzania Mainland.

3. Objects

(1) The principal objects of this Act shall be:-

(a) To give effect to the Constitutional right of access to information in any form whatsoever, in the possession of public authorities or private bodies;

- (b) To provide for freedom of information, the right of access to information and documents held by public and private bodies and authorities that is required for the exercise or protection of any right;
- (c) To promote transparent governance by providing for the duty of public and private authorities, bodies and officials to disclose information and documents in their possession in public interest;
- (d) To establish mandatory mechanisms enabling persons to access records held by public authorities and private bodies expeditiously and inexpensively;
- (e) To protect journalists' confidential sources of information;
- (f) To give effect to the obligations of the State to promote a culture of respect for human rights and social justice;
- (g) To promote regular publication of information held by public and private bodies in public interest;
- (h) To establish the public register of all information held by public authorities, bodies and officials;
- (i) To promote and safeguard a free and independent media in the country.

4. Interpretation

- (1) In this Act, unless the context requires otherwise:-

"Commission" means the Commission of information established under Section 30 of this Act;

"Committee" means appointment committee established under this Act

"Commissioner" means a member of the Commission of Information established under Section 30 this Act;

"document or record" means recorded information irrespective of the medium in which it is recorded, whether printed or on tape or film or by electronic means or otherwise and includes any map, diagram, drawing, photograph, film, microfilm, video-tape, sound recording, or machine-readable record or any record which is capable of being produced from a machine-readable record by means of equipment or a programme (or a combination of both) which is used for that purpose by the public authority or private body which holds the record;

"enactment" means an Act of Parliament or an instrument and includes rules, regulations or by laws made under any written law;

"executive Secretary" means the Executive Secretary of the Commission of Information appointed in accordance with the provisions of Section 41 of this Act;

"exempt document" means a document which, by virtue of any provision of this Act, is classified as a state secret in accordance with the provisions of Section 16 in this Act;

"exempt information" means information which is classified as state secret in accordance with the provisions of Section 16 of this Act;

"Information" means knowledge derived from study, experience, observation or instruction; knowledge of specific events or situations that has been gathered or received by communication, intelligence or news; a

collection of facts or data; communication of knowledge; computer science; processed, stored, or transmitted data stored in computer or any other electronic mechanism; a numerical measure of the uncertainty of an experimental outcome; and a record or document;

"information officer" of, or in relation to, a public body or private body, shall for the purposes of this Act mean a person responsible for facilitating access to information held by a public or private body as the case may be.

"Minister" means the Minister for the time being responsible for information.

"official" in relation to a public authority or private body, means any person in the employment-permanently or temporarily, full-time or part-time-of that public or private body, and includes the head of the authority or body, or private body;

"person" shall include an individual natural person, a legal personality, public authority, public body, private body, Non governmental organisation, community based organisation and a religious body.

"personal information" means information about an identifiable individual that is recorded in any form including, without restricting the generality of the following:-

- (a) Information relating to the race, national or ethnic origin, religion, age or marital status of the individual;
- (b) Information relating to the education or medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- (c) Any identifying number, symbol or other particular assigned to the individual;
- (d) The address, fingerprints or blood type of the individual;

- (e) The name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual;
- (f) Correspondence sent to a public authority by the individual that is explicitly or implicitly of a private or confidential nature, and replies to such correspondence that would reveal the contents of the original correspondence; or
- (g) Views or opinions of any other person about the individual;

"prescribed", means prescribed by the Minister by regulations made under this Act;

"private body" means a natural person or body corporate including a partnership or company which carries or has carried on any trade, business or profession within the United Republic of Tanzania but excludes a public authority;

"public authority" includes:-

- (a) The Parliament or a committee of the Parliament;
- (b) Office of the President of the United Republic of Tanzania and departments established by the President;
- (c) The Cabinet as constituted under the Constitution of the United Republic of Tanzania 1977;
- (d) A Ministry or a department or division of a Ministry, or the private office of Minister, wherever located;
- (e) A Local government or urban Authority;
- (f) Government Agencies and Departments performing public duties;
- (g) Judiciary;
- (h) A statutory corporation, public enterprise, company or parastatal;
- (i) Any other body or unit designated as such by regulation made under this Act or any other enactment;

“public body” shall include any public authority;

"responsible Minister" in relation to a public authority means the Minister of Government to whom responsibility for the public authority is assigned.

PART II FREEDOM OF INFORMATION

5. Freedom of information

- (1) Subject to the provisions of the Constitution of the United Republic of Tanzania 1977, every person shall have freedom of information and may seek, receive and impart information without any restriction whatsoever, through any media, regardless of frontiers;
- (2) The media in whatever its form shall be free and shall have the right to seek, access and impart news and information held by public and private bodies under this Act without restrictions;
- (3) The media shall have the duty, inter alia, to facilitate the public and individual right contained in subsection one of this section.

6. Access to Information is Free

The right to access to information is a human right and shall be given free of charge regardless of the form by which it is given.

7. Right of access

- (1) Subject to the provisions of this Act, every person shall exercise his/her right to access records and information held by public or private bodies as expeditiously and inexpensively as possible;

- (2) It shall be the duty of every public or private body or official with information to regularly publish or disclose information in its custody or possession in public interest.
- (3) Regular publication or disclosure of information by a public or private body under this section shall be done in the following forms:
 - (a) Public gatherings and strategic meetings
 - (b) Advertisements through locally circulating print media;
 - (c) Publication in Government Gazette;
 - (d) Publication through government website together with website of a particular public or private body if any;
 - (e) Regular Press Conferences with journalists and media practitioners available in the locality;
 - (f) Regular organizational publications accessed by members of the public;
- (4) Every information published by a private or public body shall be copied to the Commission of Information for records without alteration and in the same form as the original one;

8. Duty to Publish

(1) Within six months after the commencement of this Act or the coming into existence of a public body, and thereafter annually, each public body must publish in Kiswahili and widely disseminate to the public a manual containing the following information: -

- (a) The address, phone and fax number and, if available, electronic mail address of all Information Officers;

- (b) A description in sufficient details of how members of the public and the media may access information in its possession;
 - (c) A description of the subjects on which the body holds information and the categories of records held on each subject;
 - (d) A list of all records of the body which are available without a person having to request access in terms of this Act;
 - (e) A register of all information and records that were received by the authority or body stating clearly the subject matter and contents of the information and records;
 - (f) A description of remedies available in respect of any failure by the body to comply with the provisions of this Act;
 - (g) Such other information as may be prescribed as may facilitate access to information and records held by or in the custody of the body.
- (2) Every public body shall, on a periodic basis not less frequently than once each year, publish and disseminate in an accessible form key information in addition to the manual referred to in subsection (1), including but not limited to:
- (a) A description of its structure, functions, duties and finances;
 - (b) Relevant details concerning any services it provides directly to members of the public;
 - (c) Any direct request or complaints mechanisms available to members of the public regarding acts or a failure to act by that body, along with a summary of

- any requests, complaints or other direct actions by members of the public and that body's response;
- (d) A simple guide containing adequate information about its record-keeping system, the types and forms of information it holds, the categories of information it publishes and the procedure to be followed in making a request for information;
 - (e) A description of the powers and duties of its senior officers, and the procedure it follows in making decisions;
 - (f) Any regulations, policies, rules, guides or manuals regarding the discharge by that body of its functions;
 - (g) The content of all decisions and/or policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material; and
 - (h) Any mechanisms or procedures by which members of the public may make representations or otherwise influence the formulation of policy or the exercise of powers by that body.

9. Appointment of Information Officers

- (1) For the purposes of this Act, each public or private body must designate officers responsible for information as are necessary to render the Officers of the public or private body as accessible as reasonably possible for requesters of its records.
- (2) The Officers Responsible for Information shall, in addition to any obligations specifically provided for in this Act, have the following responsibilities:
 - (a) To promote within the body the best possible practices in relation to record maintenance, archiving and disposal;
 - (b) To grant access to information held by the body of which they are employees;

- (c) Receive and process requests for information, assist individuals seeking access to information to access and or locate or identify the particular information they are looking for; and
- (d) To receive any complaints regarding the performance of the body relating to information disclosure under this Act.

10. Inspection of Documents

- (1) The Commission of Information shall make regulation outlining any other documents that public and private authorities are obliged to publish pursuant to section 8 of this Act and shall define rights, privileges or benefits, obligations, penalties or other detriments, to or for which persons are or may be entitled or subject;
- (2) The regulation made under subsection (1) of this section shall provide for the duty by the public or private bodies to create public awareness of the existence of such published material;
- (3) The Commission of Information shall from time to time but in not less than once every calendar year inspect or cause to be made, inspection of private and public authorities' compliance with the provisions of section 8 of this Act and cause to be published in the Gazette, a statement (which may take the form of an index) specifying the documents of which copies are, at the time of preparation of the statement, so available and the place or places where copies may be inspected, made access to and or purchased;
- (4) If a document required to be published and made accessible to the public in accordance with this Act being a document containing a rule, guideline or practice relating to a function of a public authority,

was not made available and included in a statement in the Gazette, as referred to in this section, a member of the public who was not aware of that rule, guideline or practice shall not be subjected to any prejudice by reason only of the application of that rule, guideline or practice in relation to the thing done or omitted to be done by him if he could lawfully have avoided that prejudice had he been aware of the rule, guideline or practice.

- (5) Nothing in this Act shall prevent a public authority or private body from publishing or giving access to documents (including exempt documents), otherwise than as required by this Act, where it has the discretion to do so or is required by law to do so.

11. Request for access

- (1) A person who wishes to obtain access to information or document from a public or private body shall make an oral or written request to the public authority or private body for access to the document;
- (2) It shall be the duty of the information officer in that body or authority to assist the requester to identify the document or to provide such information concerning the document as is reasonably necessary to enable the requester to identify and specify the document.
- (3) The request may specify in which form of access, to wit, oral, physical access and perusal, hard copy, electronic copy, coded messages or recorded cassette etc the requester wishes to be given access;
- (4) Where the applicant has requested access in a particular form, access shall be given in that form unless giving access in the form requested would be detrimental to the preservation of the document or,

having regard to the nature of the document it would infringe copyright other than copyright owned by the Government subsisting in the document;

- (5) It shall be the duty of the officer responsible for information to whom a request for access is made, to offer such reasonable assistance, free of charge, as is necessary to enable a requester who is illiterate, suffering from a disability, or infirmity of the body to make an oral request for access to information;
- (6) The officer responsible for information shall after receiving an oral request for access to information in accordance with the provisions of subsection (5) of this section reduce the request in writing in the prescribed form and provide a copy thereof and a receipt for that request to the requester.

12. Granting or refusing access

- (1) A request for access must be granted or rejected within three days or as soon as reasonably possible, but in any event in not more than seven days of lodging of request;
- (2) Where access has been refused, the applicant shall be notified of the decision in writing stating adequate reasons for the refusal or deferment, including the provisions of this Act relied upon, as well as details about the right of appeal.
- (3) If a body fails to issue a decision granting or refusing access within the time limit set under subsection (1) of this section, it shall be deemed to have refused the request and shall be obliged to give notice prescribed under subsection (2) of this section to the requester.
- (4) A party who has received notice of refusal of access to information in accordance with subsection (2) may appeal to the appointed body established under

section 20(1) of this Act on ground of unreasonable refusal.

- (5) A party who has received no notice of either refusal or granting of access to information after the lapse of time prescribed in subsection (1) of this section may appeal in accordance with the provisions of subsection (4) of this section and may in its memorandum of appeal apply for punitive sanctions against the officer responsible for information of the body concerned.

13. Transfer of Request For Access

- (1) Where a request is made to a public authority for access to a document or information and the request has not been directed to the appropriate public or private authority, the public or private authority to which the request has been made shall transfer the request to the appropriate public or private authority and inform the person making the request accordingly;
- (2) Where a request has been transferred to another public or private authority in accordance with this section, it shall be deemed to be a request made to that public authority on the date on which it was received by that other public or private authority;

14. Power to Grant Access

A decision in respect of a request made to a public or private authority may be made, on behalf of the public or private authority, by the information officer of that authority unless the responsible Minister, the chief executive officer or any other officer or authority is the authorized and competent person for purposes of giving access to the information requested.

15. Refusal to grant access

- (1) Where in relation to a request for access to a document of a public or private authority, a decision is made that the applicant is not entitled to access the information requested, the public or private authority shall give notice in writing to applicant of the decision, and the notice shall:-
 - (a) state the findings on any material question of fact, referring to the material on which those findings were based, and the reasons for the decision;
 - (b) state the name and designation of the person giving the decision;
 - (c) where the decision relates to a request for access to a document which is an exempt document and access has been denied on that ground, state reasons why the document is an exempt document;
 - (d) where the decision is to the effect that the document does not exist, state that a thorough and diligent search was made to locate the document; and
 - (e) Inform the applicant of the right to appeal to the Commission of Information.
- (2) It shall be an offence punishable by fine not exceeding five hundred thousand shillings, or six months imprisonment or both for a public or private authority to contravene the provisions of section 15(1).

PART III EXEMPT INFORMATION

16. Exempt Document

- (1) The following information and documents are exempt from access by members of the public other than the creators of such information or records unless otherwise provided for in this or any other enactment:

- (a) if its disclosure would prejudice the security and or defence of the United Republic of Tanzania or its relations with a foreign state;
- (b) if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege ;
- (c) if the record contains information about research being or about to be carried out by or on behalf of a third party, the disclosure of which would, or would be likely to expose the third party or a person carrying out the research on behalf of the third party or the person who is the subject matter of the research to serious disadvantage;
- (d) If its disclosure would cause or amount to-
 - (i). Contempt of court;
 - (ii). Infringement of the privileges of Parliament;
 - (iii). Frustration of prevention or detection of crime;
 - (iv). Frustration of delivery of justice;
 - (v). Aiding and or abating commission of any crime;
 - (vi). Harming legitimate economic interests of the state or an individual;
 - (vii). Invasion of the right to privacy of an individual;
 - (viii). Harming life or safety of any person directly or indirectly referred to or mentioned in the information requested;
 - (ix). Infringement of protected patents, copyright and related rights contained in the requested information

- (2) Subsection (1) does not apply to a document that contains purely statistical, technical, scientific material that is publicly available and material that is advice of a scientific or technical expert which analyses or gives an expert opinion of any matter;
- (3) The determining principle in granting access to exempt information or record is whether it is in public interest so to do, which principle shall not be applied unreasonably to deny access to information held by public or private authority.

17. Access to Exempt Document

- (1) Notwithstanding the provisions of section 16(1) of this Act or any other law to the contrary, a public or private authority shall give access to an exempt document where, in all the circumstances of the case, is in the public interest and benefit to give access to the document irrespective of any damage, loss or disadvantage to an individual or group of individuals.
- (2) Information Officer or a Requester may refer any matter to the commission of Information within the locality of the public or private authority as the case may be for determination whether any information is exempt or not and whether its access should be granted to the Requester;

- (3) The Commission of Information shall have the power to determine whether a document is exempt or not and whether an exempt document should in the circumstances of the case be disclosed in public interest;
- (4) In this section “public interest” includes the right to know, exposure of corruption and or embezzlement of public funds, exposure of conspiracy to commit crime, protection of life and safety of individuals, protection of environment, fair trial and disclosure of such other illegal acts that undermine public confidence in democratic system of government.
- (5) Any party that has been aggrieved by the decision of the Commission of Information may petition for judicial review, reference or appeal to the High Court of the United Republic of Tanzania.

18. Limitation of exemption

- (1) The provisions of Section 16(1) apply only inasmuch as the harm they envisage would, or would be likely to occur at or after the time at which the request is considered;
- (2) Exempt documents shall be open to public access after a reasonable lapse of time; provided that no

exemption is applicable to a record held by a public or private body, which is more than thirty years old.

19. Frivolous or vexatious requests

A body may refuse a request for access if the request is manifestly frivolous, vexatious or it has recently complied with a substantially similar request from the same person.

PART IV

APPEALS SYSTEM

20. Internal appeal mechanisms

- (1) Every public authority or private body shall put in place an internal appeals mechanism by appointing a body which has not been involved in the original decision-making process to determine appeals;
- (2) A requester may lodge an internal appeal to the appointed body against a decision by a public or private body to refuse access to all or part of a record, or to levy certain fee for access to information;
- (3) A third party may lodge an internal appeal to the appointed body against a decision by a body to disclose personal information;
- (4) An internal appeal must be lodged in writing within 3 days after the decision being appealed against was

received by the requester or after receipt of notice of refusal.

- (5) All third parties who were notified of a request for access pursuant to section 11 (1) shall be notified of any internal appeals in relation to those records and shall have the right to make representations;
- (6) The original requester shall be notified of any internal appeal by a third party and shall have the right to make representations;
- (7) An internal appeal shall be decided as soon as possible but in any event within 7 working days after receipt of the appeal application.
- (8) The applicant and any third parties shall be informed in writing of the appeal decision, as well as of their right to appeal against the decision within 7 days after the determination of the appeal or after receipt of the notice of its determination.
- (9) The appellate body shall give the appellant the right to be heard and shall give its decision in writing stating reasons for acceptance or rejection of the appeal.

21. Right of Appeal to the Commission of Information

- (1) Any party whose internal appeal has been refused may, within seven days appeal to the Commission for

Information; provided that the Commission of Information may, on reasonable grounds, allow late appeals;

- (2) Any third parties who were notified of an internal appeal shall be notified of any further appeal to the Commission of Information and shall have the right to make representations.
- (3) The original requester shall be notified of any appeal to the Commission of Information by a third party and shall have the right to make representations.
- (4) An appeal before the Commission of Information shall be decided as soon as possible but in any event within 7 working days after receipt of the appeal application.
- (5) The applicant and any third parties shall be informed in writing of the appeal decision, as well as of his or her right to appeal against the decision.
- (6) Decisions of the Commission of Information may be executed by district courts as if they were decrees.

22. Powers of the High Court

- (1) Any party may, within 7 days, apply to the High Court for judicial review, reference or appeal from the decision of the Commission of Information.

- (2) The application for judicial review pursuant to subsection (1) shall be disposed of under summary procedure that shall include the filing of application for leave together with the prospective application for judicial review.
- (3) A court having granted the leave to apply for judicial review pursuant to subsection (2) of this section shall deem the accompanying prospective application for judicial review as duly filed and shall proceed with other necessary steps in the proceedings for judicial review.
- (4) Notwithstanding this Act or any other law, no record may be withheld from the court on any grounds, provided that the court shall not disclose to any person any record, which falls within the scope of an exemption to access provided for under this Act.

23. Good Faith Disclosures

No one shall be subjected to civil or criminal action, or any employment detriment, for any disclosure of information done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Act.

24. Protection of Whistleblowers

- (1) No one may be subject to any legal, administrative or employment-related sanction, regarding any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose corruption, mal-administration, abuse of power, embezzlement, a serious threat to health, safety or the environment, as long as he/she acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing.
- (2) A person who with intent to deny a right of access to information in terms of this Act destroys damages or alters a record or otherwise obstructs access to a record commits an offence and is liable upon conviction to a fine of two million shillings or to imprisonment for a period not exceeding three years.
- (3) A person who with intent to misinform, mislead or misrepresent facts or truth to the public forges, or alters a record or document or presents false academic qualifications in terms of this Act, commits an offence and is liable upon conviction to a fine of two million shillings or to imprisonment for a period not exceeding three years, or both.

25. Protection against actions for defamation

Where an officer responsible for information has given access to information or a document in accordance with the provisions of this Act, no action for defamation or breach of confidence shall lie against such officer;

26. Protection against offences

Where access has been given to a document in accordance with this Act neither the person authorizing the access nor any person concerned in the giving of the access shall be found guilty of a criminal offence by reason only of the authorizing or giving of the access.

27. Preservation and maintenance of records

- (1) A public or private authority shall maintain and preserve records in relation to its functions and a copy of documents all official documents in its possession, custody or power shall be preserved for such period of time as may be prescribed.
- (2) A person who wilfully destroys or damages a record or document required to be maintained and preserved under subsection (1), commits an offence and is liable on summary conviction to a fine of not less than five hundred thousand shillings or imprisonment not exceeding two years or both.
- (3) A person who knowingly destroys or damages a record or document which is required to be maintained and

preserved under subsection (1) 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 two million shillings or imprisonment not exceeding two years or both.

PART V
PROTECTION OF JOURNALISTS' CONFIDENTIAL SOURCES
OF INFORMATION

28. Protection of Sources

- (1) Except otherwise provided in this Act, no journalist who is or has been engaged in the gathering, procuring, compiling, editing, or publishing of information for the purpose of transmission, dissemination or publication to the public shall be required to disclose the person or means from or through which information was obtained, or to disclose any unpublished information which is likely to lead to the identification of the person or means from or through which information was obtained.
- (2) Subject to provisions of section 29 the privilege provided under subsection (1) shall prevail

notwithstanding any provision in another law, which purports to require journalists to disclose sources of their information in any legal proceeding.

29. Powers to order Disclosure

- (1) The High Court shall have the powers to lift the privilege provided under Section 28 of this Act when it is satisfied after hearing the parties that all of the following conditions have been met:
 - (a) the information is necessary for the investigation or prosecution of a serious criminal offence;
 - (b) the information is necessary for the defence of a person charged with a serious criminal offence, or to protect life;
 - (c) the same information or other information of similar probative or investigative value cannot be obtained from alternative sources; and
 - (d) the interest in disclosure outweighs the interest in non-disclosure, taking into account whether disclosure would inhibit the flow of information or endanger personal security.
- (2) A disclosure order made under subsection (1) shall clearly specify reasons why in the opinion of court, the

conditions set out in subsection (1) have been satisfied.

- (3) A disclosure order pursuant to subsection (1) shall be limited in scope to the information which is necessary to meet the conditions set out in that subsection.
- (4) Information obtained under a disclosure order may be used only for the purposes indicated in that order and for that matter, the disclosure order must state whether such information can be published for public consumption.
- (5) Where a disclosure order has either been issued or refused pursuant to Section 30, any party that is aggrieved with that order may appeal against it to the Court of Appeal.
- (6) No execution of a disclosure order shall be made until a pending appeal under subsection (1), has been determined.
- (7) Appeals made under subsection (1) of this section shall be fast tracked and treated under summary procedure.
- (8) The privilege provided for under Section 29 of this Act shall subsist regardless of publication or broadcast of the information the source of which is being sought.

PART VI

ESTABLISHMENT OF THE COMMISSION OF INFORMATION

30. Establishment of the commission of Information

- (1) There is hereby established a Commission of Information that shall deal with all matters relating to freedom and access to information under this Act.
- (2) The Commission shall -
 - (a) be a body corporate with perpetual succession and a common seal;
 - (b) be capable of suing and being sued in its corporate name;
 - (c) be capable of acquiring, holding and disposing of movable and immovable property in its corporate name for and in connection with the purposes of this Act,

31. Functions of the Commission

- (1) Subject to this Act and to any regulations made under it, the functions of the Commission shall be: -
 - (a) to establish and maintain a national information registry and sub registries as the Commission may,

from time to time, decide in order to facilitate access to information;

- (b) to make regulations for compulsory filing of all records by public and private bodies;
- (c) to grant to the public access to records and information in its possession and custody in accordance with this Act;
- (d) to receive complaints from the public on denial of access to information by public or private bodies;
- (e) to initiate investigations and research on practices hindering freedom of information;
- (f) to advise the government and other public and private authorities and bodies on issues relating to freedom of information and best practices in granting access to information;
- (g) to promote the ratification, accession and domestication of treaties or conventions related to Information and media freedom;
- (h) to promote within the country the protection and preservation of principles of freedom of information, media freedom and freedom of expression and freedom of opinion;

- (i) to publish information guidelines and best practices regarding the duty of public and private bodies to publish and disclose information in accordance to this Act;
 - (j) issue and from time to time update regulations regarding code of practice relating to the keeping, management and disposal of records, filing of information and documents with the National Information Registry, as well as the transfer of records to the Public Archives;
 - (k) organize training for Information Officers and other officials on procedures, rules and processes involved in the implementation of this Act;
 - (l) consult with and receive reports from public and private bodies, the media and the public on the problems encountered in applying or complying with this Act;
 - (m) obtain advice from, consult with, or receive and consider proposals or recommendations from the Media Stake holder's Forum; and
 - (n) to perform any other function which may be assigned to it by the Parliament;
- (2) The Commission of Information shall establish and maintain, as far as may be practicable, a system of

consultation, coordination and cooperation with the Tanzania Communications Regulatory Authority (TCRA), the media Stake holder's Forum and with any other body or organisation established by or under any other written law and having functions similar to those specified in sub-section (1)

32. Members of the Commission

- (1) The Commission of Information shall consist of nine members, all of whom shall have some expertise, by virtue of their education or experience, in information, law, gender, media and other related fields who are known for their high moral standards, integrity, impartiality and competence.
- (2) Commission may, during its meetings co-opt any person or seek advice from any person with expert knowledge in a particular field;
- (3) A person appointed under subsection (2) shall be paid such remuneration as may be determined by the Commission.

33. Appointment Committee

- (1) There shall be established an Appointment Committee consisting of:
 - (a) One representative from the Ministry

- responsible for information and Broadcasting;
- (b) One representative of the privately established professional Media Council;
 - (c) One representative of the association of media owners;
 - (d) One representative of Journalists trade unions;
 - (e) One representative of private higher media learning institutions;
 - (f) One representative of the Commission for Human Rights and Good Governance;
 - (g) One representative of public higher media learning institutions;
 - (h) One representative from national human rights Non Governmental Organizations;
- (2) The Chairperson of the Appointments Committee shall be elected by the members listed in subsection (1) of this section;
- (3) The Minister shall make regulations providing for the appointment of the Committee and the procedure to be followed by the Committee in appointing members of the Commission;
- (4) The Appointment Committee shall forward the names of the nine Commissioners including that of its chairperson to the Minister who shall lay them

before the parliament for approval;

- (5) The appointment Committee shall strive to ensure that membership of the Commission is representative of the stakeholders;
- (6) The appointments committee shall ensure a gender balance in appointing members of the commission.

34. Criteria for appointment of Commissioners

A person shall not be appointed as Commissioner if he/she:

- (a) is not a citizen of Tanzania;
- (b) is employed in the civil service or any other branch of government;
- (c) holds an official office in, or is an employee of a political party or holds an elected position in central or local government;
- (d) has directly or indirectly, significant financial interest in the media;
- (e) is an un-discharged bankrupt;
- (f) has been convicted, after due process, of corruption, crime of dishonesty or crimes of moral turpitude.

35. Tenure of office

Members of the Commission shall serve for five years and may be re-elected to a second and final term.

36. Removal of members of the Commission

- (1) A member of the Commission shall cease to be a member, after the following circumstances have occurred: if he/she-
 - (a) resigns from the Commission ;
 - (b) fails without assigning any valid reasons whatsoever to attend three consecutive meetings of the Commission ;
 - (c) becomes of unsound mind; commits a serious violation of his or her responsibilities under this Act;
 - (d) dies; and
 - (e) upon expiry of two terms of five years each.
- (2) Any member who ceases to be a member of the Commission pursuant to sub-section (1) shall be duly replaced in the same manner as he or she was appointed.
- (3) Any change in the composition of the Commission pursuant to Section 37(1) shall be laid before parliament.

37. Rules of Procedure

- (1) The Commission shall appoint its Chairperson, Vice-Chairperson, and shall adopt such rules, in relation to meetings and other matters, as it considers necessary and appropriate to enable it to perform its functions.
- (2) The Commission shall ordinarily meet at least once every

month to consider ordinary business of the Commission but if need arise the Commission may meet as its business predicates.

- (3) The Chairperson shall convene an ad hoc meeting at the request of not less than three members.
- (4) In the absence of the Chairperson, the Vice-Chairperson, shall preside at all meetings of the Commission.
- (5) A decision at a meeting of the Commission shall be adopted by a simple majority of the members present and voting, and in case of an equality of votes, the Chairperson shall have a casting vote in addition to his or her deliberative vote.
- (6) The Executive Secretary shall attend all meetings of the Commission as an ex-officio member.
- (7) The Executive Secretary shall cause to be kept, minutes of each meeting of the Commission that shall be confirmed by the Commission at the next meeting and signed by the chairperson of the Commission.
- (8) The proceedings of the Commission shall not be invalidated by vacancy in its membership.

38. Remuneration of Commissioners

The commissioners shall be paid a salary and such

other remunerations as shall be determined and approved by the National Assembly and shall be compensated for actual expenses, including travel, accommodation and subsistence incurred as a result of their duties as members of the Commission.

39. Powers to Employ

- (1) The Commission shall have powers to employ such members of staff as it may deem fit for the purpose of smooth execution of the Commission's functions.
- (2) Without prejudice to the generality of the above subsection the Commission shall have powers to employ any consultant for any particular purpose on short time or part-term basis.
- (3) The Commission shall pay such salaries and allowances to its staff as it may determine from time to time.

40. Limitation of liabilities

No member of the Commission shall be held personally liable for any act or default of members the Commission done or omitted bona fide in the course of carrying out the responsibilities and functions of, or exercising the power conferred upon the Commission.

41. Commission's Secretariat

- (1) There shall be a full-time Secretariat of the Commission, which shall be under the direction of the Executive Secretary
- (2) The Commission shall appoint an Executive Secretary who shall hold and vacate office in accordance with the terms of appointment.
- (3) The Commission shall establish offices in all districts of Tanzania Mainland for purposes of effective exercise of its powers and functions
- (4) The Commission may from time to time appoint any person with expert knowledge in a particular field to assist the Commission in performing its functions.
- (5) A person appointed under subsection (4) shall be paid such remuneration as may be determined by the Commission.
- (6) The Commission shall appoint, at such salaries and upon such terms and conditions as it may think fit, such other officers and employees of the secretariat as it may deem necessary for the proper and efficient conduct of the business and activities of the Commission.
- (7) The Commission shall perform any other function, which may be assigned to it by the chairperson in writing under his hand or by or under any other written law.

42. Powers of the Commission

- (1) To enforce the provisions of the Act;
- (2) To hear complaints from the public on the denial of access to information;
- (3) To grant access to information and documents in its possession and custody;
- (4) To establish and manage national information registry and its sub registries;
- (5) To receive and initiate investigations into denial of access to information;
- (6) To sanction breaches of provisions of this Act

43. Liability of members of the commission

No member of the Commission shall be held personally liable for any act or default of the Commission done or omitted bona fide in the course of carrying out the responsibilities and functions of, or exercising the power conferred upon the Commission

44. Media Research & Development Fund

- (1) There is hereby established a research and development fund for the promotion of free media and access to information which shall be administered by the Commission;
- (2) For purpose of this section the Commission shall

disburse the fund for promotional and capacity building activities of media stakeholders and to support research in media technology and issues;

45. Investigations and Hearings

- (1) The Commission shall have original jurisdiction to hear complaints against denial of access to information, unauthorised disclosure of exempt information, appellate jurisdiction in appeals from decisions made by organs of private and public bodies hearing internal appeals and the power to conduct investigations as is necessary to discharge its responsibilities under this Act.
- (2) When holding a hearing, the Commission shall have the power to require the production of evidence and to compel witnesses to testify before it.
- (3) Hearings of the Commission shall be conducted in accordance with the rules of natural justice.
- (4) Where the Commission has exercised its original jurisdiction to hear a matter, then any party aggrieved by the decision may proceed to the High Court by way of appeal, reference or judicial review.
- (5) The composition of the Commission for purposes of hearing complaints or appeals shall always include a member who is a lawyer;
- (6) The Commission may delegate any of its functions

under this Act to any officer or committee of the Commission.

- (7) Any party who defaults to produce evidence or to appear before the Commission as the case may be, the Commission shall proceed ex parte and that party shall be precluded from the right of appeal from the Commission's decision.

46. Appearance before the Commission

Any person may appear in person or by a legal representative to present or defend complaints lodged before the Commission.

47. National Information Registry

- (1) It is hereby established a resource known as National Information Registry that shall be managed and run by the Commission of information established under this Act;
- (2) The National information registry shall store all public information and may have sub-registries as the commission may deem fit;
- (3) It shall be mandatory for all public bodies and authorities to register and file with the Commission, all public information within three days of receipt or possession of such information;
- (4) The public shall have the right of direct access to

- information from the National Information Registry;
- (5) It shall be a criminal offence punishable by fine not exceeding five hundred thousand shillings or imprisonment for six months for any public authority to default compliance with the provisions of subsection (3) of this section.

48. Establishment of Media Stakeholders Forum

- (1) It is hereby established a forum of media stakeholders that shall be known as “Media Stakeholders Forum” that shall be a free and independent civil society forum for advising the government and the Commission on matters concerning the media, the profession of journalism and media policy.
- (2) The Media Stakeholders Forum shall be broad based to allow all civil society stakeholders in information industry to take part but shall include privately established independent professional media council and the association of media owners.
- (3) The Media Stakeholders Forum shall have a consultative status with the Commission of Information.
- (4) The Media Stakeholders Forum shall play a watchdog and monitoring function for the civil society and shall lay before parliament an annual report on matters concerning freedom of information and the implementation of this Act.

(5) The Media Stakeholders Forum shall be self-funded by its member; provided that nothing stated or provided herein shall prevent the government from funding the activities of the Media Stakeholders Forum on matters related to information.

49. Registration and licensing of media bodies and outlets

All provisions of law relating to registration, licensing and management of media bodies and outlets shall be liberal and permissive and no law shall be valid if it unreasonably impedes the growth of a free, robust and independent media;

50. Accounts of the Commission

(1) The Commission shall cause to be kept proper accounts and shall, as soon as practicable after the end of each financial year, cause such accounts to be audited by an auditor approved by the Government;

(2) Copies of the statements referred to in subsection (1) of Section 52 of this Act and a copy of the auditors report shall be laid before parliament.

51. Annual Report

(1) The Commission shall, at the end of each financial

- year, prepare an Annual Report on the activities of the Commission during that financial year, and shall submit such report to the parliament;
- (2) The Annual Report shall be published and widely distributed;
 - (3) The Annual Report shall include the following information:
 - (a) Information relating to complaints against denial of access to information;
 - (b) A description of any sanctions applied by the Commission and the decision relating thereto;
 - (c) A description of how private and public bodies have complied with the provisions of this Act in the current year;
 - (d) A description of how the Commission has involved the civil society in developing its capacity to be an information based society;
 - (e) A description on how the Media Development Fund has helped in development of a free, competent and robust media in the country;
 - (f) an analysis of the extent to which it has met its objectives of the current year and its objectives for the coming year;
 - (4) The Commission may, in the public interest, make and submit to the government special reports.
 - (5) The funds and resources of the Commission shall consist

of -

- (a) such sums as may be provided for the purposes of the Commission by parliament, either by way of grant or loans;
 - (b) such sums as the Commission may, in any manner, become payable to or vested in the Commission either under the provisions of this Act or any other written law, or incidental to the carrying out of its functions.
 - (c) The Commission may invest its fund in such investments as are authorized by, and subject to such conditions as are prescribed by the Trustee Investments Act, 1967, in relation to investment of funds by a trustee.
- (6) The Minister shall cause to be laid before the National Assembly as soon as may be practicable after he has received them-
- (d) copies of the statements referred to in section (52) together with a copy of the auditors' report;
- (7) The National Assembly may in writing, give the Commission directions of a general or specific nature, and the Commission shall comply with every such direction.

52. Professional Ethical Standards

- (1) Media ethics and journalist's codes of professional practice shall be laid, monitored and enforced by a privately established and independent media council.
- (2) The media council established in accordance with subsection (1) of this section shall belong to and be managed by media professionals.
- (3) The media council shall have in its constitution an ethics body or committee that shall apply and enforce media ethics and codes of professional practice for all branches of journalism.
- (4) Any person aggrieved by any breach of media ethics and journalist's codes of professional practice may file complaint before the media council whose decisions shall have the binding effect of a court judgement.
- (5) District Magistrates Courts presided by civil magistrates shall enforce the decisions of the media council as if they were their own judgements.
- (6) Appeals from media council decisions shall lie to the High Court.

53. Powers To Make Regulations

- (1) The Commission shall have powers to make regulations for the implementation of this Act.
- (2) All regulations made under this Act shall be laid before Parliament for approval.

- (3) The Commission may make regulations under sub-section
- (1) to regulate the following:
 - (b) Code of Conduct for Members of the Commission and Secretariat;
 - (c) Criteria for selection of members of the Internal appeal mechanisms;
 - (d) A user friendly procedure of investigation and determination of complaints lodged before the Commission of Information;
 - (e) Tenure of staff;
 - (f) Remuneration for secretariat;
 - (g) Procedure for execution of its orders;
 - (h) Procedure for accessing information held by the commission and information registry established under the Act;
 - (i) Form and manner of complaints to be lodged by complainants under the Act

54. Repeal of legal exemptions to information

- (1) Subject to the provisions of this Act, any provision of any other enactment that denies or exempts any information or document in the possession of a public or private body is hereby repealed.
- (2) Subject to the Constitution of the United Republic of Tanzania 1977, the provisions of this Act shall override the provisions of any other enactment relating to freedom of information and media professional ethics.

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