

**SUGGESTED AMENDMENTS  
TO THE FREEDOM OF INFORMATION ACT PASSED BY THE PARLIAMENT OF INDIA  
IN 2002**

28 July 2004

Attached is a preliminary list of amendments that need to be made to the Freedom of Information Act of 2002. The existing clauses are quoted in the first column and the proposed amendments are given in the second column, in *italics*. Where new clauses or sections are suggested, they are also in the second column, in *italics*. Where required, rationale for suggested amendments is given in column three.

These amendments have yet to be widely discussed, though through a preliminary exercise to share them with a wider group, some comments have been received that have not yet been incorporated. These include the concern that the exemptions relating to the protection of individual privacy should be significantly strengthened, and that "community bodies" like the district councils, in the tribal states of the north-east, should be brought under the purview of the act. These and other suggestions we hope to incorporate at a later stage.

Also outstanding is the inclusion of a general clause specifying that, notwithstanding anything in this or any other act, where the public interest served in releasing the information is greater than in not releasing it, it should invariably be released. Also, how exactly to bring in the corporate and NGO sector under the purview of this act? Directly, or through the government?

All these need further thought.

These suggested amendments have been sent to the National Advisory Council, as requested by them, and will be discussed at the next meeting of the Council.

However, before they are finalized, there will be, we are assured, opportunities to make further suggestions, based on wider consultations with concerned people and groups.

We would be grateful if you could send in your comments to the National Campaign for People's Right to Information (NCPRI), which is trying to compile the various views and pass them on to the government. We would also be grateful if you circulated these to as wide a group of people as possible. Though the discussion will carry on, we hope to send in our next set of suggestions by the first week of August. Therefore, we would be grateful if you could send us your comments in the next week.

You could send in your comments to the NCPRI at:

Email: [yu915@hotmail.com](mailto:yu915@hotmail.com)

Fax: +91 (0)11 26178048

Address: C 18A DDA Flats, Munirka, New Delhi 110067.

Thank you

Original Act	Proposed Amendments	Remarks
PREAMBLE		
A Bill to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto.	<i>A Bill to operationalise the right to information by setting out the practical regime for people to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability and in relation to matters connected therewith or incidental thereto.</i>	This is because Right to Information has been treated as a part of fundamental right to speech and expression by the Hon'ble Supreme Court and should be expressed as such.
Chapter I: PRELIMINARY		
1. (1) This Act may be called the Freedom of Information Act, 2002	<i>This Act may be called the Right to Information Act 2004</i>	
(2) It extends to the whole of India except the State of Jammu and Kashmir.	Retain	
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint	<i>It shall come into force immediately.</i>	This avoids the current problem whereby the Freedom of Information Act 2002 has not been notified for more than 18 months after receiving Presidential Assent.
Section 1(4) Does not exist in the present Act.  Section 1(5) Does not exist in the present Act.	<i>Where State legislation exists dealing with the right to access information, a person will have the right to seek information under the State law as well as under this Act, if the information pertains to a subject under the State List in Schedule 7 of the Constitution of India. Objectives of the Act: The objectives of the Act are to - (i) give effect to the Fundamental Right to Information, which will contribute to strengthening democracy, improving governance, increasing public participation, promoting transparency and accountability and reducing corruption (ii) establish voluntary and mandatory mechanisms or procedures to give effect to right to information in a manner which enables persons to obtain access to records of public authorities in a swift, effective, inexpensive and reasonable manner. (iii) promote transparency, accountability and effective governance of all public authorities by, including but not limited to, empowering and educating all persons to: - understand their rights in terms of this Act in order to exercise their rights in relation to public authorities; - understand the functions and operation of public authorities; and - effectively participating in decision making by public authorities that affects their rights.</i>	

<p>2. In This Act, unless the context otherwise requires:</p> <p>(a) "appropriate Government" means in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled-</p> <p>(i) by the Central Government, the Central Government;</p> <p>(ii) by the State Government, The State Government;</p> <p>(iii) by the Union territory, The Central Government;</p>	<p>Retain</p>
<p>(b) "competent authority" means-</p> <p>(i) the Speaker in the case of the House of the People or the Legislative Assembly and the Chairman in the case of the Council of States or the Legislative Council;</p> <p>(ii) The Chief Justice of India in the case of the Supreme Court;</p> <p>(iii) The Chief Justice of the High Court in the case of a High Court;</p> <p>(iv) The President or the Governor, as the case may be, in case of other authorities created by or under the Constitution;</p> <p>(v) the administrator appointed under article 239 of the Constitution;</p>	<p>Retain</p>
<p>(c) "freedom of information" means the right to obtain information from any public authority by means of-</p> <p>(i) inspection, taking of extracts and notes;</p> <p>(ii) Certified copies of any records of such public authority;</p> <p>(iii) Diskettes, floppies or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;</p>	<p><i>"right to information" means the right to access information held by, legally accessible by or under the control of any public authority and includes:</i></p> <p>(i) <i>Inspection of works, documents, records;</i></p> <p>(ii) <i>Taking notes and extracts and obtaining certified copies of documents or records;</i></p> <p>(iii) <i>Taking certified samples of material;</i></p> <p>(iv) <i>Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.</i></p>
<p>(d) "information" means any material in any form relating to the administration, operations or decisions of a public authority;</p>	<p><i>"information" means any material in any form, including records, documents, file notings, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data, material held in any electronic form and any information relating to a private body which can be accessed by a public authority under any law;</i></p> <p>This new definition serves two purposes:</p> <p>(i) It makes it clear that the term information should be interpreted broadly and specifically covers types of information which some authorities have sought to exclude from the purview of the Act, such as file notings and samples.</p> <p>(ii) It ensures that information which the Government can access from private bodies can be accessed by the public under this law, even if the information is not held by the government at the time the request is made. It is anticipated that the government will be required to request the information from the private body under the relevant law. In practice,</p>

		<p>this means that where the relevant documents expose corruption or mismanagement, it will not be the responsibility of the requestor to draw this to the government's attention. Rather, the government will have an obligation to take cognizance of this, because they would have procured the information.</p>
(e) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;	Retain	
(f) "public authority" means any authority or body established or constituted,- (i) by or under the Constitution; (ii) by any law made by the appropriate Government, and includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government:	(f) "public authority" means any authority or body established or constituted- (i) by or under the Constitution; (ii) by any law made by the appropriate Government, and includes any other body owned or controlled by the appropriate Government:	The act prescribes that information from non-government bodies, like corporate houses, NGOs etc., should be sought through the government, for reasons above.
(g) "Public Information Officer" means the Public Information Officer appointed under sub-section (1) of section 5; (h) "record" includes- (i) any document, manuscript and file; (ii) any microfilm, microfiche and facsimile copy of a document; (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and (iv) any other material produced by a computer or by any other device.  (i) "third party" means a person other than the person making a request for information and includes a public authority.	"Public Information Officer" means the Public Information Officer appointed under sub-section (1) and/or (1A) of section 5;  Retain          Retain	
<b>CHAPTER II</b>		
<b>FREEDOM OF INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES</b>		
3. Subject to the provision of this Act, all citizens shall have freedom of information.	<i>Subject to the provision of this Act, all persons shall have the right to information.</i>	
4. Every public authority shall- (a) maintain all its records, in such manner and form as is consistent with its operational requirements duly catalogued and indexed:  (b) publish at such intervals as may be prescribed by the appropriate Government or competent authority.- (i) the particulars of its organisation, functions and duties. (ii) the powers and duties of its officers and employees and the procedure followed by them in the	<p><i>maintain all its records, duly catalogued and indexed, in a manner and form which facilitates the right to information as provided for in this Act, including ensuring that all records covered by the Act are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different system so that authorised access to such records is facilitated.</i></p> <p><i>publish within 6 months of this Act coming into force and thereafter update at least every 12 months-</i></p> <p><i>(i) The particulars of its organisation, functions and duties.</i></p> <p><i>(ii) The powers and duties of its officers and employees</i></p> <p><i>(iii) Procedures followed during the decision making process, including chains of</i></p>	

<p>decision making process.</p> <p>(iii) the norms set by the public authority for the discharge of its functions.</p> <p>(iv) rules, regulations, instructions, manual and other categories of records under its control used by its employees for discharging its functions.</p> <p>(v) the details of facilities available to citizens for obtaining information, and</p> <p>(vi) the name, designation and other particulars of the Public Information Officer;</p>	<p><i>supervision and accountability.</i></p> <p>(iv) <i>The norms set by the public authority for the discharge of its functions.</i></p> <p>(v) <i>Rules, regulations, instructions, manual and records held by or under its control used by its employees for discharging its functions.</i></p> <p>(vi) <i>A statement of the categories of documents that are held by or under the control of the public authority.</i></p> <p>(vii) <i>Particulars of any arrangement that exists for consultation with, or representation by, members of the public in relation to the formulation of policy in, or in the administration of, the public authority.</i></p> <p>(viii) <i>A statement listing all boards, councils, committees and other bodies constituted by two or more persons, that are part of, or that have been established for the purpose of advising, the public authority, and whose meetings are open to the public, or the minutes of whose meetings are available for public inspection;</i></p> <p>(ix) <i>A directory of their public servants, from the level of the head of the department or his/her equivalent and below;</i></p> <p>(x) <i>The monthly remuneration received for each position, including the system of compensation as established in regulations;</i></p> <p>(xi) <i>Information concerning the budget assigned to each agency, including all plans, proposed expenditures and reports on disbursement,</i></p> <p>(xii) <i>The design and execution of subsidy programs, including the amounts allocated to them, criteria for access, implementation details and beneficiaries.</i></p> <p>(xiii) <i>All concessions, permits or authorisations granted, with their recipients specified.</i></p> <p>(xiv) <i>All information available to the public authority in electronic form or capable of being reduced to electronic form which is not exempt under this Act, subject to availability of resources.</i></p> <p>(xv) <i>the details of facilities available to citizens for obtaining information, including if the public authority maintains a library or reading room that is available for public use, a statement of that fact including details of the address and hours of opening of the library or reading room; and</i></p> <p>(xvi) <i>the name, designation and other particulars of the Public Information Officer;</i></p> <p>(xvii) <i>such other information as prescribed by the appropriate government or Information Commissioner from time to time which would promote transparency across public authorities or in specific public authorities, as appropriate;</i></p> <p><i>on the basis that it shall be a constant endeavor of public authorities to take steps to provide as much information to the public suo moto at regular intervals through various means of communication so that the public have minimum resort to the use of this Act to</i></p>
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<p>request in writing or through electronic means, to the concerned Public Information Officer specifying the particulars of the information sought by him.</p>	<p><i>means in English or the official language of the area in which the application is being submitted, to:</i></p> <p>(a) <i>the Public Information Officer of the relevant public authority;</i></p> <p>(b) <i>the Block Development Officer or Sub-Divisional Magistrate, as specified in 5 (1A &amp; B)</i></p> <p><i>specifying the particulars of the information sought by him/her.</i></p>	<p><i>This would save them the cost, time and trouble of going each time to a district or state headquarters or, for those already living in such headquarters, to identify and then travel to the concerned office. It would also ensure that they get a receipt in hand, which they would not if they had sent it by post. The BDO and SDM are appropriate bodies to operate as "single window" application mechanisms.</i></p>
<p>Provided that where such request cannot be made in writing the Public Information Officer shall render all reasonable assistance to the person making the request orally to reduce it in writing.</p>	<p>Retain</p>	
<p>New Section 6 (2) Does not exist in present Act.</p> <p>New Section 6 (3) Does not exist in the present Act.</p> <p>7. (1) On receipt of a request under section 6, the Public Information Officer shall as expeditiously as possible and in any case within thirty days of the receipt of the request either provide the information requested on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9.</p> <p>Provided that where the information sought for concerns the life and liberty of a person, the same should be provided within forty-eight hours of the receipt of the request:</p>	<p><i>An applicant for access to information shall not be required to give any reason for requesting access to that information or any other personal details except those necessary for contacting the applicant.</i></p> <p><i>(1) Where an application is made to a Public Authority for information:</i></p> <p>(a) <i>which is held by another Public Authority; or</i></p> <p>(b) <i>the subject matter of which is more closely connected with the functions of another Public Authority,</i></p> <p><i>the first mentioned Public Authority shall transfer the application or such part of it as may be appropriate to that other Public Authority and shall inform the applicant immediately of the transfer.</i></p> <p><i>(2) A transfer of an application pursuant to subsection (1) shall be made as soon as practicable but not later than 5 days after the date of receipt of the application</i></p> <p><i>7(1) Subject to section 5, sub section (1B) above and section 7, sub-section (3)(a) below, on receipt of a request under section 6, the Public Information Officer shall as expeditiously as possible and in any case within fifteen days of the receipt of the request, either provide the information requested on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9.</i></p> <p><i>Provided that where the information sought for concerns the life and liberty of a person, the same should be provided within forty-eight hours of the receipt of the request:</i></p> <p><i>7(2) If a Public Information Officer fails to give the decision on a request for access to the requestor concerned within the period contemplated in s.7(1), the Public Information Officer would, for the purposes of this Act, be regarded as having refused the request.</i></p>	
<p>Provided further that where it is decided to provide the information on payment of any further fee representing the cost of providing the information, he shall send an intimation to the person making the request, giving the details of the fees determined by him, requesting him to deposit the fees and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty</p>	<p><i>7(3) Where it is decided to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving:</i></p> <p>(a) <i>the details of such fees as determined by him, at prescribed rates, requesting him to deposit the fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of fifteen days referred to above;</i></p> <p>(b) <i>information concerning his/her rights with</i></p>	

days referred to above.	<p><i>respect to:</i></p> <p><i>(i) requesting a reduction or waiver of the fees imposed in accordance with section 7B below;</i></p> <p><i>(ii) review the decision as to the amount of fees charged and/or the form of access provided, including the contact details of the appellate body, time limits, process and any relevant forms.</i></p>
New Section 7 (4) Does not exist in the present Act.	<i>Where access to a record or a part thereof is to be given under this Act and the person to whom access is to be given has a sensory disability, the public authority will provide assistance to enable access to the information, including providing assistance with inspection as appropriate.</i>
New Section 7(5) Does not exist in the present Act.	<p><i>(a) Subject to sub-sections (b) and (c) below, where access to information is to be given in the form of printed copies, or copies in some other form, such as on tape, disk, film or other material, the applicant shall pay the prescribed fee.</i></p> <p><i>(b) Any fees payable by the applicant shall be reasonable, and shall in no case exceed the actual cost of copying the information or in the case of samples of materials the cost of obtaining the sample, and shall be set via regulations at a maximum limit taking account of the general principle that fees should not be set so high that they undermine the objectives of this Act in practice.</i></p> <p><i>(c) Notwithstanding subsection (a), where a public authority fails to comply with the time limits specified in section 7, any access to information to which the applicant is entitled pursuant to his request shall be provided free of charge.</i></p>
New Section 7(6) Does not exist in the present Act.	<p><i>(1) Upon receiving a notice under sections 7(3) or 10(2), an applicant who is the holder of a Below Poverty Line Card and/or Antyodhaya Scheme Card, may request the Public Information Officer to reduce and/or waive any fee imposed for access to information.</i></p> <p><i>(2) Where an applicant has requested that the fee be reduced or waived, the Public Information Officer may decide that the charge is to be reduced or not to be imposed.</i></p> <p><i>(3) Without limiting the matters the Public Information Officer may take into account in determining whether or not to reduce or not to impose the charge, the Public Information Officer must take into account:</i></p> <p><i>(a) whether the payment of the charge, or part of it, would cause financial hardship to the applicant, or to a person on whose behalf the application was made; and</i></p> <p><i>(b) whether the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public.</i></p>
(2) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.	Retain Renumber 7 (6)



<p>(3) Where a request is rejected under sub-section (2), the Public Information Officer shall communicate to the person making request,</p> <p>(i) the reasons for such rejection;</p> <p>(ii) the period within which an appeal against such rejections may be preferred;</p> <p>(iii) the particulars of the appellate authority.</p>	<p><i>Renumber 7 (7) Where a request is rejected under sub-section (6), the Public Information Officer shall communicate to the person making request,</i></p> <p><i>(i) the reasons for such rejection;</i></p> <p><i>(ii) the period within which an appeal against such rejections may be preferred;</i></p> <p><i>(iii) the particulars of the appellate authority.</i></p>
<p>(4) Information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.</p> <p>8. (1) Notwithstanding anything herein before contained, the following information not being information relating to any matter referred to in sub-section (2), shall be exempted from disclosure, namely:-</p> <p>(a) information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, strategic scientific or economic interest of India or conduct of international relations;</p> <p>(b) information, the disclosure of which would prejudicially affect public safety and order, detection and investigation of an offence or which may lead to an incitement to commit an offence or prejudicially affect fair trial or adjudication of a pending case;</p> <p>(c) information, the disclosure of which would prejudicially affect the conduct of Centre-State relations, including information exchanged in confidence between the Central and State Governments or any of their authorities or agencies;</p> <p>(d) Cabinet papers including records of deliberation of the Council of Ministers, Secretaries and other officers;</p> <p>(e) Minutes or records of advice including legal advice, opinions or recommendations made by any officer of a public authority during the decision making process prior to the executive decision or policy formulation;</p> <p>(f) Trade or commercial secrets protected by law or information, the disclosure of which</p>	<p>Retain <i>Renumber 7 (8)</i></p> <p><i>Notwithstanding anything herein before contained, the following information not being information relating to any matter referred to in sub-section (2), shall be exempted from disclosure, namely:-</i></p> <p><i>(a) information, the disclosure of which would or would be reasonably likely to seriously prejudice:</i></p> <p><i>(i) the defence or national security of the State;</i></p> <p><i>(ii) strategic scientific or economic interests of the State ; or</i></p> <p><i>(iii) the conduct of international relations;</i></p> <p><i>(b) information, the disclosure of which would or would be reasonably likely to:</i></p> <p><i>(i) cause serious prejudice to the detection and investigation of an offence,</i></p> <p><i>(ii) lead to an incitement to commit an offence;</i></p> <p><i>(iii) cause serious prejudice to a the ability to conduct a fair trial or adjudication of a pending case;</i></p> <p><i>(ii) contravene a lawful order of a court;</i></p> <p><i>(iii) endanger the life, health or safety of any individual;</i></p> <p><i>(c) information the disclosure of which would or would be reasonably likely to seriously frustrate the success of a policy or project, by premature disclosure of that policy;</i></p> <p><i>(d) information, the disclosure of which would, or would be reasonably likely to:</i></p> <p><i>(i) seriously prejudice the legitimate commercial or the competitive position of a public authority;</i></p> <p><i>(ii) cause unfair gain or loss to any person;</i></p> <p><i>unless the information relates to the results of any product or environmental testing and reveals a serious public safety or environmental risk.</i></p> <p><i>(e) where the information was obtained in confidence from a third party and it contains a trade secret protected by law, unless the information relates to the results of any product or environmental testing and reveals a serious public safety or environmental risk.</i></p> <p><i>(f) information relating to an individual or other information, the disclosure of which would constitute a clear and unwarranted invasion of personal privacy and which has no relationship to any activity of the Government or where</i></p>

<p>would prejudicially affect the legitimate economic and commercial interests or the competitive position of a public authority; or would cause unfair gain or loss to any person; and</p> <p>(g) Information, the disclosure of which may result in the breach of privileges of Parliament or the Legislature of a State, or contravention of a lawful order of a court.</p> <p>(2) Subject to the provisions of clause (a) of sub-section I, any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty-five years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:</p>	<p><i>disclosure will not serve any public interest, provided that a person may be granted access to a record covered under this subsection in so far as the record consists of information -</i></p> <p>(i) <i>about a person who has consented in writing to its disclosure to the person requesting the record;</i></p> <p>(ii) <i>that was given to the public body by the person to whom it relates and the person was informed by or on behalf of the public body, before it was given, that the information belongs to a class of information that would or might be made available to the public;</i></p> <p>(iii) <i>already publicly available;</i></p> <p>(iv) <i>about a person who is deceased and the person requesting the information is the person's next of kin or making the request with the written consent of the person's next of kin; or</i></p> <p>(v) <i>about a person who is or was an official of a public body and which relates to the position or functions of the person, including, but not limited to -</i></p> <p>(I) <i>the fact that the person is or was an official of that public body;</i></p> <p>(II) <i>the title, work address, work phone number and other similar particulars of the person;</i></p> <p>(III) <i>the classification, salary scale or remuneration and responsibilities of the position held or services performed by the person; and</i></p> <p>(IV) <i>the name of the person on a record prepared by the person in the course of employment;</i></p> <p><i>Provided that the information, which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.</i></p> <p><i>Subject to the provisions of clause (a) of sub-section I, any information relating to any occurrence, event or matter which has taken place, occurred or happened 10 years before the date on which any request is made under section 6 shall be provided to any person making a request under that section.</i></p>
<p>Provided that where any question arises as to the date from which the said period of twenty-five years has to be computed, the decision of the Central Government shall be final.</p>	<p><i>Provided that where any question arises as to the date from which the said period of ten years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this act.</i></p>
<p>9. Without prejudice to the provisions of section 8. A public information officer may reject a request for information also where such request-</p> <p>(a) is too general in nature or is of such a nature that, having regard to the volume of information required to be retrieved or processed would involve unreasonable diversion of the resources a public authority or would adversely interfere with the functioning of such authority:</p> <p>Provided that where such request is</p>	<p><i>Without prejudice to the provisions of section 8, a Public Information Officer may:</i></p> <p>(a) <i>reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.</i></p> <p>(b) <i>delay access to information which is likely to be so published within thirty days of the receipt of the request, provided that if the information is not published within thirty days as anticipated, it will be provided to the applicant forthwith.</i></p> <p>Reasons for amendments Sub-section (a) could too easily be misused by public officials. Experience from Karnataka shows that similar provisions have been used to deny legitimate requests. Sub-section (d) is an exemption and has been moved to sit with the exemptions in s.8(1) so that it becomes subject to the new public interest override in s.8(1A)</p>

<p>rejected on the ground that the request is too general, it would be the duty of the Public Information Officer to render help as far as possible to the person making request to reframe his request in such a manner as may facilitate compliance with it;</p> <p>(b) relates to information that is required by law, rules, regulations or orders to be published at a particular time and such information is likely to be so published within thirty days of the receipt of such request; or</p> <p>(c) relates to information that is contained in published material available to public;</p> <p>(d) relates to information which would cause unwarranted invasion of the privacy of any person.</p>	
<p>10. (1) If a request for access to information is rejected on the ground that it is in relation to information which is exempted from disclosure, then notwithstanding anything contained in this Act, access may be given to that part of the record which does not obtain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.</p>	<p>Retain</p>

<p>10.(2) Where access is granted to a part of the record in accordance with sub-section (1), the person making the request shall be informed:</p> <p>(a) that only part of the record requested, after severance of the record containing information which is exempted from disclosure, is being furnished; and</p> <p>(b) of the provisions of the Act under which the severed part is exempted from disclosure.</p>	<p><i>10. (2) Where access is granted to a part of the record in accordance with sub-section (1), the Public Information Officer shall send a notice to the applicant, advising:</i></p> <p><i>(a) that only part of the record requested, after severance of the record containing information which is exempted from disclosure, is being furnished; and</i></p> <p><i>(b) The reasons for the decision; including any findings on any material questions of fact, referring to the material on which those findings were based;</i></p> <p><i>(c) The name and designation of the person giving the decision; and</i></p> <p><i>(d) Details of the fees determined by him/her and requesting the applicant to deposit the fees;</i></p> <p><i>(e) Information concerning his/her rights with respect to:</i></p> <p><i>(i) requesting a reduction or waiver of the fees imposed in accordance with section 7B;</i></p> <p><i>(ii) review of the decision regarding non-disclosure of part of the information, the amount of fees charged and/or the form of access provided, including the contact details of the appellate body, time limits, process and any relevant forms;</i></p>
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(11). (1) Where a public authority intends to disclose any information or record, or part thereof on a request made under this Act which relates to, or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within twenty-five days from the receipt of a request, give written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof: Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such party.

(2) where a notice is given by the public information officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within twenty days from the date of issuance of notice, be given the opportunity to make representation against the proposed disclosure

(3) Notwithstanding anything contained in section 7, the public information officer shall, within sixty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal against the decision under section 12.

*11. (1) Where a public authority intends to disclose any information or record, or part thereof on a request made under this Act which relates to, or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within five days from the receipt of a request, give written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof and invite the third party to make a submission, in writing or orally, regarding whether the information should be disclosed, which submission shall be taken into account when determining whether to disclose the information.*

*Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such party.*

*(2) where a notice is given by the public information officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of issuance of notice, be given the opportunity to make representation against the proposed disclosure*

*(3) Notwithstanding anything contained in section 7, the public information officer shall, within twenty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.*

*(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal against the decision under section 12(2).*

<p>Section 12(1)</p> <p>A new section to be introduced</p>	<p><i>Establishment of the Chief Information Commissioner and Information Commissioners</i></p> <p>(i) <i>A Chief Information Commissioner will be appointed in each State by the Central Government, in consultation with the Chief Justice of the High Court of the relevant State, to act as an independent appeal body under this Act</i></p> <p>(ii) <i>The Central Government shall have the power to appoint Information Commissioners, who will work under the general supervision of the Chief Information Commissioner, at the request of the Chief Information Commissioner, and in consultation with the Chief Justice of the High Court of the relevant State, as necessary and taking into consideration the objects of this Act, workload and geographic requirements.</i></p> <p>(iii) (a) <i>Every Chief Information Commissioner shall be a retired judge of any High Court.</i>  (b) <i>Every Information Commissioner shall be a person of integrity and good repute.</i></p> <p>(iv) <i>The Chief Information Commissioners and any Information Commissioners shall not be members of Parliament or members of the Legislative of any State or Union Territory and shall not hold any other office of profit and shall not be connected with any political party or be carrying on any business or practice any profession;</i></p> <p>(v) <i>The requisite budgetary allocations for the emoluments and expenses, including office expenses, of the Chief Information Commissioner and of other Information Commissioners will be provided by the Government of India through special budgetary provisions made available to the respective states out of the Central Government Budget.</i></p> <p>(vi) <i>The Chief Information Commissioner and of other Information Commissioners shall function autonomously without being subjected to directions by any other authority and would be under the administrative control of the Government of India, Ministry of Personnel, Administrative Reforms and Public Grievances.</i></p> <p>(vii) <i>Every person appointed as a Chief Information Commissioner or an Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office. He/she will not be eligible for reappointment.</i></p> <p>(viii) <i>The Chief Information Commissioners and Information Commissioners can be removed for misconduct by the appointing authority, with the concurrence of the Chief Justice of the relevant High Court.</i></p>
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<p>12. (1) Any person aggrieved by a decision of the Public information officer may, within thirty days of receipt of such decision, prefer an appeal to such authority as may be prescribed:  Provided that such authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p> <p>(2) A second appeal against the decision under sub-section (1) shall lie within thirty days of such decision, to the Central Government or the State Government or the competent authority, as the case may be:  Provided that the Central Government or the State Government or the competent authority, as the case may be, may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p> <p>(3) The appeals referred to in sub-sections (1) and (2) shall be disposed of within thirty days of the receipt of such appeals or within such extended period, as the case may be, for reasons to be recorded in writing.</p> <p>(4) If the decision of the public information officer against which the appeal is preferred under sub-section (1) or (2) also relates to information of third party, the appellate authority shall give a reasonable opportunity of being heard to that third party.</p>	<p><i>12 (2) Appeals to the Information Commissioners</i></p> <p><i>(i) Any person who does not receive a decision or is aggrieved by a decision of the Public Information Officer may, within 90 days from the time by which the decision should have been made or receipt of a decision, prefer an appeal to the relevant Information Commissioner, Provided that the relevant Information Commissioner may entertain appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</i></p> <p><i>(ii) Where an appeal is being preferred against an order made by the Public Information Officer under Section 11 to disclose "third party" information, the appeal by the concerned third party must be made within thirty days of the order.</i></p> <p><i>(iii) If the decision of the Public Information Officer against which the appeal is preferred relates to information of a third party, the relevant Information Commissioner shall give a reasonable opportunity of being heard to that third party.</i></p> <p><i>(iv) In any appeal proceedings, the onus to prove that a denial of a request was justified will be on the public authority that denied the request.</i></p> <p><i>(v) Appeals to any Information Commissioner shall be disposed of within thirty days of the receipt of the appeals [or within such extended period, not exceeding a total of forty five days from the date of filing of appeal, for reasons to be recorded in writing.]</i></p> <p><i>(vi) The decision of the Information Commissioner shall be binding.</i></p> <p><i>(vii) In his/her decision, the relevant Information Commissioner has the power to:</i></p> <p><i>(a) require the public authority to take any such steps as may be necessary to bring it into compliance with the Act, including by:</i></p> <p><i>(i) providing access to information, including in a particular form;</i></p> <p><i>(ii) appointing an information officer;</i></p> <p><i>(iii) publishing certain information and/or categories of information;</i></p> <p><i>(iv) making certain changes to its practices in relation to the keeping, management and destruction of records;</i></p> <p><i>(v) enhancing the provision of training on the right to information for its officials;</i></p> <p><i>(vi) providing him or her with an annual report, in compliance with section 4(b);</i></p>
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	<ul style="list-style-type: none"> <li>(b) <i>require the public body to compensate the complainant for any loss or other detriment suffered;</i></li> <li>(c) <i>impose any of the penalties available under this Act;</i></li> <li>(d) <i>reject the application.</i></li> <li>(viii) <i>The Information Commissioner shall serve notice of his/her decision, including any rights of appeal, on both the complainant and the public authority.</i></li> <li>(ix) <i>A decision of the Information Commissioner may be appealed to the High Court or the Supreme Court, on any point of fact and law.</i></li> </ul>
<p>Section 12B: A new section to be introduced</p>	<p><i>Powers of the Chief Information Commissioner</i></p> <p>(1) <i>Subject to this Act, the Chief Information Commissioners shall receive and investigate complaints from persons:</i></p> <ul style="list-style-type: none"> <li>(a) <i>who have been unable to submit a request to a Public Information Officer, either because none has been appointed as required under the Act or because the Public Information Officer has refused to accept their application;</i></li> <li>(b) <i>who have been refused access to information requested under this Act;</i></li> <li>(c) <i>who have not been given access to information within the time limits required under this Act;</i></li> <li>(d) <i>who have been required to pay an amount under the fees provisions that they consider unreasonable, including a person whose wishes to appeal a decision in relation to their application for a fee reduction or waiver;</i></li> <li>(e) <i>who believe that they have been given incomplete, misleading or false information under this act;</i></li> <li>(f) <i>in respect of any other matter relating to requesting or obtaining access to records under this Act.</i></li> </ul> <p>(2) <i>Where a Chief Information Commissioner is satisfied that there are reasonable grounds to investigate a matter relating to requesting or obtaining access to records under this Act, the Chief Information Commissioner may initiate a complaint in respect thereof.</i></p> <p>(3) <i>The Chief Information Commissioners have, in relation to the carrying out of the investigation of any complaint under this Act, power:</i></p> <ul style="list-style-type: none"> <li>(a) <i>to summon and enforce the appearance of persons and compel them to give oral or written evidence on oath and to produce such documents and things as the Commissioner deems requisite to the full investigation and consideration of the complaint, in the same manner and to the same extent as a superior court of record;</i></li> </ul>



	<p>(b) <i>to administer oaths;</i></p> <p>(c) <i>to receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as the relevant Information Commissioner sees fit, whether or not the evidence or information is or would be admissible in a court of law;</i></p> <p>(d) <i>to enter any premises occupied by any government institution on satisfying any security requirements of the institution relating to the premises;</i></p> <p>(e) <i>to converse in private with any person in any premises entered pursuant to paragraph (d) and otherwise carry out therein such inquiries within the authority of the Chief Information Commissioner under this Act as the Commissioner sees fit; and</i></p> <p>(f) <i>to examine or obtain copies of or extracts from books or other records found in any premises entered pursuant to paragraph (d) containing any matter relevant to the investigation.</i></p> <p>(4) <i>Notwithstanding any other Act of Parliament or any privilege under the law of evidence, an Information Commissioner may, during the investigation of any complaint under this Act, examine any record to which this Act applies that is under the control of a government institution, and no such record may be withheld from any Commissioner on any grounds.</i></p> <p>(5) <i>All the powers of the Chief Information Commissioner would also be enjoyed by the Information Commissioners.</i></p>
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<p>Section 12C: New section to be inserted.</p>	<p><i>Penalties</i></p> <p>(1) <i>Subject to sub-section (3), where any Public Information Officer has, without any reasonable cause, failed to supply the information sought, within the period specified under section 7(1), the relevant Information Commissioner shall, on appeal, impose a penalty of rupees two hundred fifty, which amount must be increased by regulation at least once every five years, for each day's delay in furnishing the information, after giving such Public Information Officer a reasonable opportunity of being heard.</i></p> <p>(2) <i>Subject to sub-section (3), where it is found in appeal that any Public Information Officer has –</i></p> <p>(i) <i>Refused to receive an application for information;</i></p> <p>(ii) <i>Mala fide denied a request for information;</i></p> <p>(iii) <i>Knowingly given incorrect or misleading information,</i></p> <p>(iv) <i>Knowingly given wrong or incomplete information, or</i></p> <p>(v) <i>Destroyed information subject to a request;</i></p> <p>(vi) <i>Obstructed the activities of a Public Information Officer, any Information Commission or the courts;</i></p> <p><i>commits an offence and will be liable upon summary conviction to a fine of not less than rupees two thousand and imprisonment of up to two years, or both.</i></p> <p>(3) <i>An officer whose assistance has been sought by the Public Information Officer for the performance of his/her duties under this Act shall be liable for penalty as prescribed in sub-sections (1) and (2) jointly with the Public Information Officer or severally as may be decided by the relevant Information Commissioner.</i></p> <p>(4) <i>Any fines imposed under sub-sections (1), (2) and (3) shall be recoverable from the salary of the concerned officer, including the Public Information Officer, or if no salary is drawn, as an arrears of land revenue.</i></p> <p>(5) <i>The Public Information Officer or any other officer on whom the penalty under sub-sections (1), (2) and (3) is imposed shall also be liable to appropriate disciplinary action under the service rules applicable to him.</i></p>
<p>CHAPTER III MISCELLANEOUS</p>	
<p>13. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.</p>	<p>Retain</p>
<p>14. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in</p>	<p>Retain</p>

force or in any instrument having effect by virtue of any law other than this Act.	
15. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.	Retain
<p>16. (1) Nothing contained in this Act shall apply to the intelligence and security organisations, specified in the Schedule being organisations established by the Central Government or any information furnished by such organisations to that Government.</p> <p>(2) The Central Government may, by notification in the official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be omitted from the Schedule.</p> <p>(3) Every notification issued under sub-section (2) shall be laid before each house of parliament.</p> <p>(4) Nothing contained in this Act shall apply to such intelligence and security organisations which may be specified, by a notification in the official gazette, by a state Government from time to time.</p> <p>(5) Every notification issued under sub section (4), shall be laid before the state legislature.</p>	<p><i>Delete this section.</i></p> <p>This section violates the provisions of Article 19(2) of the Constitution. In any case, the security concerns have already been addressed at section 8. Removal of entire organizations from the purview of this Act would be an unconstitutional Act.</p>
<p>Section 16A: New section to be inserted.</p>	<p>Monitoring and Reporting <i>(1) The Chief Information Commissioners shall, as soon as practicable after the end of each year, prepare a report on the implementation of this Act during that year and cause a copy</i></p>

	<p><i>of the report to be laid before the legislatures of the concerned state and each House of the Parliament.</i></p> <p>(2) <i>Each responsible department/ministry shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Chief Information Commissioners as is required to prepare the report under this section, and shall comply with any prescribed requirements concerning the furnishing of that information and the keeping of records for the purposes of this section.</i></p> <p>(3) <i>Each report shall, at a minimum, state in respect of the year to which the report relates:</i></p> <ul style="list-style-type: none"> <li>(a) <i>the number of requests made to each public authority;</i></li> <li>(b) <i>the number of decisions that an applicant was not entitled to access to a document pursuant to a request, the provisions of this Act under which these decisions were made and the number of times each provision was invoked;</i></li> <li>(c) <i>the number of appeals sent to the Information Commissioners for review, the nature of the complaints and the outcome of the appeals;.</i></li> <li>(d) <i>particulars of any disciplinary action taken against any officer in respect of the administration of this Act;</i></li> <li>(e) <i>the amount of charges collected by each public authority under this Act;</i></li> <li>(f) <i>any facts which indicate an effort by public authorities to administer and implement the spirit and intention of this Act;</i></li> <li>(g) <i>recommendations for reform, including recommendations in respect of particular public authorities, for the development, improvement, modernisation, reform or amendment of this Act or other legislation or common law or any other matter relevant to operationalising the right to access information, as appropriate.</i></li> </ul> <p>(4) <i>The Central Government Ministry responsible for the administration of this Act, as soon as practicable after the end of each year, prepare a summary report on the implementation of this Act during that year and cause a copy of the report to be laid before the concerned state legislatures and each House of the Parliament, drawing on the information provided in the reports of the Chief Information Commissioners for each State.</i></p> <p>(5) <i>If it appears to any Chief Information Commissioner that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with provisions or spirit of the Act , s/he may give to the authority a recommendation specifying the steps which ought in his/her opinion to be taken for promoting such conformity.</i></p>
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<p>Section 16B</p> <p>New section to be inserted.</p>	<p><i>(1) The Government must, to the extent that financial and other resources are available:</i></p> <ul style="list-style-type: none"> <li><i>(c) develop and conduct educational programmes to advance the understanding of the public, in particular of disadvantaged communities, of this Notification and of how to exercise the rights contemplated in this Act;</i></li> <li><i>(d) encourage public authorities to participate in the development and conduct of programmes referred to in paragraph (a) and to undertake such programmes themselves; and</i></li> <li><i>(e) promote timely and effective dissemination of accurate information by public authorities about their activities.</i></li> <li><i>(f) train information officers of public authorities and/or produce relevant training materials for use by authorities themselves.</i></li> </ul> <p><i>(2) The Government must, within 18 months, compile in each official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in this Act.</i></p> <p><i>(3) The Government must, if necessary, update and publish the guide at regular intervals. The guide must, without limiting the generality of subsection (2), include a description of -</i></p> <ul style="list-style-type: none"> <li><i>(a) the objects of this Act;</i></li> <li><i>(b) the postal and street address, phone and fax number and, if available, electronic mail address of the Public Information Officer of every public authority as appointed under section X;</i></li> <li><i>(c) the manner and form of a request for access to a information of a public authority;</i></li> <li><i>(d) the assistance available from and the duties of Public Information Officers of a public authority in terms of this Act;</i></li> <li><i>(g) the assistance available from the Information Commissioners in terms of this Act;</i></li> <li><i>(h) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act, including the manner of lodging an appeal with the Chief Information Commissioner and a court against a decision by the Public Information Officer of a public authority;</i></li> <li><i>(i) the provisions providing for the voluntary disclosure of categories of records in accordance with section 3;</i></li> <li><i>(j) the notices regarding fees to be paid in relation to requests for access; and</i></li> <li><i>(k) any additional regulations or circulars relevant to obtaining access to information in accordance with this Act.</i></li> </ul> <p><i>(4) The Government must, if necessary, update and publish the guide at regular intervals.</i></p>
<p>17. (1) The Central Government may by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p>	<p>Retain</p>

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely	Retain	
(a) intervals at which matters referred to in sub-clauses (i) to (vi) of clause (b) of section 4 shall be published.	Retain	
(b) The fee payable under sub-section (1) of section 7;	Retain	
(c) The authority before whom an appeal may be preferred under sub-section (1) of section 12;	<i>Delete</i>	Has become redundant in light of section 12(2).
(d) any other matter which is required to be, or may be, prescribed.	Retain <i>Renumber</i>	
18. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of the Act.	Retain	
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -	Retain	
(a) the fee payable under sub-section (1) of section 7;	Retain	
(b) the authority before whom an appeal may be preferred under sub-section (1) of section 12;	<i>Delete</i>	Has become redundant in light of section 12(2).
(c) any other matter which is required to be, or may be prescribed;	Retain	
Provided that initially the rules shall be made by the Central Government by notification in the official gazette.	Retain	
19. (1) The competent authority may, by notification in the official gazette make rules to carry out the provisions of this Act.	Retain	
(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely: -	Retain	
(a) the fee payable under sub-section (1) of section 7;	Retain	
(b) the authority before whom an appeal may be preferred under sub-section (1) of section 12;	<i>Delete</i>	Has become redundant in light of section 12(2).
(c) any other matter which is required to be, or may be, prescribed.	Retain	
20. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each house of parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.	Retain	
(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.	Retain	
21. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the	Retain	

official gazette, make such provision not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:	
Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.	Retain
(2) Every order made under this section shall as soon as may be after it is made, be laid before the houses of parliament.	Retain
<p style="text-align: center;">THE SCHEDULE (See section 16)</p> <p>Intelligence and Security Organisations Established by the Central Government</p> <ol style="list-style-type: none"> <li>1. Intelligence Bureau.</li> <li>2. Research and Analysis Wing of the Cabinet Secretariat.</li> <li>3. Directorate of Revenue Intelligence.</li> <li>4. Central Economic Intelligence Bureau.</li> <li>5. Directorate of Enforcement.</li> <li>6. Narcotics Control Bureau.</li> <li>7. Aviation Research Centre.</li> <li>8. Special Frontier Force.</li> <li>9. Border Security Force.</li> <li>10. Central Reserve Police Force.</li> <li>11. Indo Tibetan Border Police.</li> <li>12. Central Industrial Security Force.</li> <li>13. National Security Guards.</li> <li>14. Assam Rifles.</li> <li>15. Special Service Bureau.</li> <li>16. Special Branch (CID), Andaman and Nicobar.</li> <li>17. The Crime Branch-CID, - CB, Dadra and Nagar Haveli.</li> <li>18. Directorate of Vigilance including Anti Corruption Branch, National Capital Territory of Delhi.</li> <li>19. Special Branch, Lakshadweep Police.</li> </ol>	<p style="text-align: center;"><i>Delete this section</i></p> <p style="text-align: right;">Becomes redundant once section 16 is deleted.</p>