

THE FREEDOM OF INFORMATION BILL, 2000

The Bill introduced in Parliament in July 2000

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.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Freedom of Information Act, 2000.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,
 - (a) "Appropriate Government" means in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled -
 - (i) by the Central Government, the Central Government;
 - (ii) by the State Government, the State Government;
 - (b) "Competent authority" means -
 - (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;
 - (ii) the Chief Justice of India in the case of the Supreme Court;
 - (iii) the Chief Justice of the High Court in the case of a High Court
 - (iv) the President or the Governor, as the case may be, in case of other authorities created by or under the Constitution;

- (c) “freedom of information” means the right to obtain information from any public authority by means of,
- (i) inspection, taking of extracts and notes;
 - (ii) certified copies of any records of such public authority;
 - (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;
- (d) “Information” means any material relating to the administration, operations or decisions of a public authority;
- (e) “prescribed” means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;
- (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;
- (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.

CHAPTER II

FREEDOM OF INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

Freedom of Information

3. Subject to the provisions of this Act, all citizens shall have freedom of information.

Obligations on public authorities

4. Every public authority shall -

- (a) maintain all its records, in such a 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 decision making process;
 - (iii) the norms set by the public authority for the discharge of its functions;
 - (iv) rules, regulations, instructions, manuals and other categories of records under its control used by its employees for discharging its functions;
 - (v) the details of facilities available to citizens for obtaining information; and
 - (vi) the name, designation and other particulars of the Public Information Officer.
- (c) publish all relevant facts concerning important decisions and policies that affect the public while announcing such decisions and policies;
- (d) give reasons for its decisions, whether administrative or quasi-judicial to those affected by such decisions;
- (e) before initiating any project, publish or communicate to the public generally or to the persons affected or likely to be affected by the project in particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interests of maintenance of democratic principles.

Appointment of Public Information Officers

- 5. (1)** Every public authority shall for the purposes of this Act, appoint one or more officers as Public Information Officers.
- (2) Every Public Information Officer shall deal with requests for information and shall render reasonable assistance to any person seeking such information.
- (3) The Public Information Officer may seek the assistance of any other officer as he considers necessary for the proper discharge of his duties.
- (4) Any officer whose assistance has been sought under sub-section (3), shall render all assistance to the Public Information Officer seeking his assistance.

Request for obtaining information

6. A person desirous of obtaining information shall make a request in writing, or through electronic means, to the concerned Public Information Officer specifying the particulars of the information sought by him:

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.

Disposal of requests

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 fees as may be prescribed or reject the request for any of the reasons specified in section 8 and 9:

Provided 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 details of the fees determined by him, requesting him to deposit the fees and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to above.

(2) Before taking any decision under section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.

(3) Where a request is rejected under sub-section (2), the Public Information Officer shall communicate to the person making the request, -

- (i) the reasons for such rejection;
- (ii) the period within which the appeal against such rejection may be preferred;
- (iii) the particulars of the appellate authority.

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

Exemption from disclosure of information

8. (1) Notwithstanding anything hereinbefore contained, the following information not being information relating to any matter referred to in sub-section (2), shall be exempted from disclosure, namely:-

(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;

(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;

(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.

(d) Cabinet papers including records of the deliberations of the Council of Ministers, Secretaries and other officers;

(e) minutes or records of advice including legal advice, opinions or recommendations made by an officer of a public authority during the decision making process prior to the executive decision or policy formulation;

(f) trade or commercial secrets protected by law or information, the disclosure of which 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.

(g) information, the disclosure of which may result in the breach of privileges of Parliament or the Legislature of a State, contravention of a lawful order of a court.

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

Provided that where any question arises as to the date from which the said period of twenty-five years has to be computed, the decision of the Central Government shall be final.

Grounds for refusal of access in certain cases

9. Without prejudice to the provisions of section 8, a Public Information Officer may reject a request for information also where such request -

(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 disproportionate diversion of the resources of a public authority or would adversely interfere with the functioning of such authority:

Provided that where such request is 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;

(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

(c) relates to information that is contained in published material available to public;

(d) relates to information which would cause unwarranted invasion of the privacy of any person.

Severability

10. 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 contain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.

Third party information

11. Where a public authority intends to disclose information on a request made by a party 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 by notice to such third party invite representation against the proposed disclosure, if any, within fifty days from the date of receipt of such notice:

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 interest of such third party.

Appeals

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.

(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.

(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.

(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.

CHAPTER III

MISCELLANEOUS

Protection of action taken in good faith

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.

Act to have an overriding effect

14. The provisions of the Official Secrets Act, 1923 and every other Act in force shall cease to be operative to the extent to which they are inconsistent with the provisions of this Act.

Bar of jurisdiction of Courts

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.

Act not to apply to certain organisations

16. (1) Nothing contained in this Act,-

(a) shall apply to the intelligence and security organisations, specified in the Schedule being organisations established by the Central or a State Government or any information furnished by such organisations to the respective Governments;

(b) shall until Part B of the Schedule is amended under sub-section (2) apply to the intelligence and security organisations by whatever name called discharging their functions as such under the State Governments.

(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 the Central or a State 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.

(3) Every notification issued under sub-section (2), shall be laid before each House of Parliament.

Power to make rules by Central Government

17. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(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:-

(a) intervals at which the matters referred to in the sub-clauses (i) to (vi) of clause (b) of section 4 shall be published;

(b) the fee payable under sub-section (1) of section 7;

(c) the other authority before whom an appeal may be preferred under sub-section (1) of section 12;

(d) any other matter which is required to be, or maybe prescribed.

Power to make rules by State Government

18. (1) The State government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(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:-

(a) the fee payable under sub-section (1) of section 7;

(b) the authority before whom an appeal may be preferred under sub-section (1) of Section 12;

(c) any other matter which is required to be, or maybe, prescribed;

Provided that initially the rules shall be made by the Central Government by notification in the Official Gazette.

Rule making power by competent authority

19. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(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:-

(a) the fee payable under sub-section (1) of section 7;

(b) the other authority before whom the appeal maybe preferred under subsection (1) of section 12;

(c) any other matter which is required to be, or maybe, prescribed.

Laying of rules

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 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 maybe; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(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.

Power to remove difficulties

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appears 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 the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Houses of the Parliament.

THE SCHEDULE

(See Section 16)

PART A

INTELLIGENCE AND SECURITY ORGANISATIONS ESTABLISHED BY THE CENTRAL GOVERNMENT

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.

PART B

INTELLIGENCE AND SECURITY ORGANIZATIONS ESTABLISHED BY THE STATE GOVERNMENT

Name of the Organization

Name of the State

- 1.
- 2.
- 3.

STATEMENT OF OBJECTS AND REASONS

The need to enact a law on right to information was recognized unanimously by the Chief Ministers Conference on "Effective and Responsive Government" held on 24th May 1997 at New Delhi. in the 38th Report relating to Demands for Grants of the Ministry of Personnel, Public Grievances and pension, the Parliamentary Standing Committee on Home Affairs recommended that the Government should take measures for enactment of such a legislation.

2. In order to make the Government more transparent and accountable to the public, the Government of India appointed a Working Group on Right to Information and promotion of Open and Transparent Government under the Chairmanship of Shri H.D. Shourie. The Working group was asked to examine the feasibility and need for either full-fledged Right to Information Act or its introduction in a phased manner to meet the needs of open and responsive Governance and also examine the framework of rules with reference to the Civil Services (Conduct) Rules and Manual of Office Procedure. The said Working Group submitted its report in May 1997 along with a draft Freedom of Information Bill to the Government. The Working Group also recommended suitable amendments to the Civil Services (Conduct) Rules and Manual of Departmental Security instructions with a view to bring them in harmony with the proposed Bill.
3. The draft Bill submitted by the Working group was subsequently deliberated by the Group of Ministers constituted by the central government to ensure that free flow of information was available to the public, while, *inter alia*, protecting the national interest, sovereignty and integrity of India, and friendly relations with foreign States.
4. The proposed Bill is in accord with both article 19 of the Constitution as well as article 19 of the Universal Declaration of Human Rights.
5. In our present democratic frame work, free flow of information for the citizens and non-Government institutions suffers from several bottlenecks including the existing legal frame work, lack of infrastructure at the grass root levels and an attitude of secrecy within the Civil Services as a result of the old frame work of rules. The Government proposes to deal with all these aspects in a phased manner so that the Freedom of Information Act became a reality consistent with the objective of having a stable, honest, transparent and efficient Government.
6. The proposed Bill will enable the citizens to have an access to information on a statutory basis. With a view to further this objective, clause 3 of the proposed Bill specifies that subject to the provisions of this Act, every citizen shall have right to freedom of information. Obligation is cast upon every public authority under clause 4 to provide information and to maintain all records consistent with its operational requirements duly catalogued, indexed and published at such intervals as may be prescribed by the appropriate Government or the competent authority.
7. The Bill seeks to achieve the above objectives.

NEW DELHI
The 15th May, 2000

VASUNDHARA RAJE

**PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION
OF INDIA**

(Copy of letter No. 34011/1(s)/97-Estt.(B) dated 15th May, 2000 from Ms. Vasundhara Raje, Minister of State for Personnel, Public Grievances and Pension to the Secretary General, Lok Sabha)

The President, having been informed of the subject matter of "The Freedom of Information Bill, 2000", recommends the introduction and consideration of the said Bill in the Lok Sabha under Article 117(1) and (3) of the Constitution.

FINANCIAL MEMORANDUM

1. Sub-clause 1 of clause 5 of the Bill provides for appointment of one or more officers as Public Information Officers to deal with requests for information. It is expected that the various agencies be appointing some of their existing officers as the Public Information Officers for the purpose of this Act or redesignating the publicity or information officers as Public Information Officers. Only in a few cases, it might be necessary to create additional posts for this purpose. Thus, the manpower requirement in this regard arising from the legislation is expected to be met from within the existing sanctioned strength of the various agencies at the central and State level, all within the existing budget.
2. At this stage, it is not possible to give precise details of the expenditure to be incurred on material resources in terms of computers and other office equipment required for supply of information. However, the requirement of these items is likely to be met by the ongoing programmes for computerisation of operations in various agencies and any additional expenditure might be offset by recovery of fees for supply of information.
3. After the proposed Bill becomes an Act, a nodal Cell for finalisation of rules and instructions, guiding the States and reporting progress to Government shall have to be set up in the Ministry of Personnel, Public Grievances and Pensions under the Central Government. This Cell shall consist of one Joint Secretary, two Deputy Secretaries, two Senior Analysts and two conventional Sections. In addition, the personal staff of the above officers will also be appointed. An estimate recurring expenditure of Rs. 28 lakhs is likely to be incurred on the salaries of the officers and staff in the Cell.
4. The Bill does not involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16(2) of the Bill empowers the Central Government, by notification in the Official Gazette, to amend the Schedule for including any other intelligence or security organisation established by the Central or State Government or omit them from any organisation already specified therein.

Clause 17 of the Bill empowers the Central Government to make rules to carry out the provisions of the Act. Sub-clause (2) of that clause enumerates the matters with respect to which rules may be made under this clause. These matters relate to *inter alia*, the intervals at which particulars of organisation, functions and duties of its officers, details of facilities available to citizens for obtaining information in such organisation; fee payable to obtain an information from an organisation; the authority to be prescribed before whom an appeal may be preferred from the decision of Public Information Officer and nay other matter which is required to be prescribed.

Clause 18 of this Bill empowers the State Government to make rules to carry out the provisions of the Act. The matters in respect of which such rules may be made are specified therein. These matters relate to, *inter alia*, the fee payable for obtaining the information from the Public Information Officer of an organisation; the authority to be prescribed before whom an appeal may be preferred against the decision of the Public Information Officer and any other matter which is required to be prescribed.

Clause 19 of this Bill empowers the competent authority to make rules to carry out the provisions of the Act. These matters relate to, *inter alia*, the fee payable for obtaining the information from the Public Information Officer of an organisation; the authority to be prescribed before whom an appeal may be preferred against the decision of the Public Information Officer and any other matter which is required to be prescribed.

Clause 21 of this Bill empowers the Central Government by order to remove certain difficulties which may appear to it to be necessary or expedient. Further, such order shall not be made under this clause after the expiry of a period of two years from the commencement of this Act. Every such order shall be laid before both Houses of Parliament.

The matters in respect of which such rules may be made are matters of administrative details and procedure and, it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.