

CHAPTER-1 PRELIMINARY

1. Short Title, Extent, and Commencement

- (1) This Act may be called the Access to Information Act 1996.
- (2) It extends to whole of India except Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government, may, by notification, appoint; and different dates may be appointed for different States, and for different chapters of the Act. However, Chapter II shall come into force immediately while the other chapters of the Act shall come into force within the one year of enactment, or if so extended, within two years from the date of enactment.

2. Definitions

In this Act, unless the context otherwise requires

- (a) "Chief Information Commissioner" means, Chief Information Commissioner appointed under Section 35 of Chapter VII of this Act;
- (b) "Commercial Information" of a person's business includes a formula, pattern, compilation, programme, device, product, method, technique or process that
 - (i) is used or may be used in business or any commercial advantage;
 - (ii) derives independent economic value, actual or potential, from persons who can obtain economic value from its disclosure or use;
 - (iii) is the subject of reasonable efforts to prevent it from becoming generally known;
 - (iv) the disclosure of which would result in harm or improper benefit to any other persons;
- (c) "Complainant" means
 - (i) a requester, or
 - (ii) any person acting for and on behalf of requester, or
 - (iii) a third party, or
 - (iv) any voluntary public interest group registered under any law for the time being in force, or
 - (v) one or more requesters, where there are numerous requesters having the same interest.

Explanation: Voluntary public interest group referred in (iv) above has independent *locus standi* on a complainant to file a complaint on behalf of one or more requesters whether or not a requester is a party to complaint.
- (d) "Complaint" means any allegation in writing made by a complainant that-
 - (i) where he is a requester access to record has been wrongfully denied to him by a public body;
 - (ii) where he is a requester that access to and/or correction of his personal information has been wrongfully denied to him by a public body having the custody or control of the record;
 - (iii) where he is a third party that personal information or commercial information about himself/itself has been or will be wrongfully disclosed to a requester by a public body having custody or control of such information;
 - (iv) where he is a requester that the information requested by him has been unduly delayed by a public body'
 - (v) where he is a requester that the public body has charged unreasonable fees for giving the information or has not waived the fees in accordance with the provisions of this Act.

- (e) "Employee" in relation to a public body is a person retained under contract of employment to render services to the public body whether permanently or temporarily;
- (f) "Environment" includes water, air and land and the interrelationship which exists among and between water, air and land, and human being, other living creatures, plants, micro-organisms and property;
- (g) "Hazardous substance" includes any substance or preparation which by reason of its chemical or physiochemical properties or handling is liable to cause harm to human beings, other living creatures, plants, micro-organisms, property or the environment.
- (h) "Hospital" includes a nursing home, clinic, medical centre, medical or teaching institution for therapeutic purposes and other like institution.
- (i) Industry means any building, -plant, factory or structure wherein hazardous substance, including those notified by Government (Central or State), is produced, transported, processed, stored, or handled and includes any operation or processes whether inside a building, plant, factory or structure or otherwise;
- (j) "Information Commissioner" means Information Commissioner appointed under Section 41 Chapter VII.
- (k) "Law enforcement" includes
 - (i) policing, including intelligence operations;
 - (ii) investigations that lead or could lead to the imposition of a penalty or sanction; and
 - (iii) proceedings that lead or could lead to the imposition of a penalty or sanction;
- (l) "Member" includes the Chairman, Vice-Chairman and other members of the Tribunal;
- (m) "Offence" means an act or omission made punishable by any law for the time being in force in India.
- (n) "Person" includes-
 - i. an individual;
 - ii. a company registered under the Companies Act 1956;
 - iii. a firm whether registered or not;
 - iv. a Hindu undivided family;
 - v. a co-operative society;
 - vi. every other association or persons whether registered under the Societies Registration Act, 1860 or not;
- (o) "Personal information" means information about an identifiable individual, including
 - (i) the individual's name, home or business address or home or business telephone number;
 - (ii) the individual's race, caste, tribe, religious beliefs, gender, age, ancestry or place of origin;
 - (iii) an identifying number, symbol or other particulars assigned to the individual;
 - (iv) the individual's fingerprints, blood type or inheritable characteristics;
 - (v) information about the individual's health and health case history, including information about a physical or mental disability, as well as medical and hospital records;
 - (vi) information about the individual's educational, financial, criminal or employment history;
 - (vii) the individual's personal opinions, except if they are about someone else;
- (p) "Prescribed" means prescribed by the rules made under this Act;
- (q) "Public body" includes-
 - (i) Houses of Parliament, Committees constituted by the Parliament;
 - (ii) Central Government, any ministry, department or office or agencies of that Government;
 - (iii) State Legislature, Committees constituted by the Legislature;
 - (iv) State Government, any ministry, department or office or agencies of that Government;
 - (v) Union Territory Administration, any department or office of that Administration;
 - (vi) Statutory bodies or incorporated company, whether wholly or partly controlled or financed by Central or State Government or Union Territory Administration;

- (vii) Local authorities and their agencies;
 - (viii) Courts and Tribunals;
 - (ix) Constitutional authorities;
 - (x) Commissions of Enquiry under the Commission of Enquiry Act or otherwise;
 - (xi) Any other body which provides public services such as but not limited to energy, transport communication; banking, insurance, finance health, medical and the like;
- (r) "Public interest group" means group of individuals working for protection and promotion of interest of disadvantaged groups of people such as but not limited backward classes, handicapped persons, women, children or the elderly persons and includes public interest groups working for consumer and environment protection, human rights and civil liberties.
- (s) "Record" means information recorded in any form whether printed or in writing or on tape or film or by electronic means or otherwise and includes any document, map, diagram, photograph, microfiche, microfilm, videotape, sound recording or machine readable record or any record which is capable of being produced from machine, readable records by means of equipment or a programme (or a combination of both) which is used for that purpose by the public body which holds record.

Explanation I: For the purpose of this Act any order, proceedings, opinions, documents, like, notices, correspondence, reports, minutes, resolutions, manuals, debates of voting records of House of Parliament, State Legislative Assemblies, Local Self Government, Municipal Corporation, Union Territory Administration including increasing legislative enactment's, subordinate legislation such as rules, regulations, notifications, bylaws are deemed to be record under Section 2(s) of this Act. Explanation II: Record includes public record and a part of a record.

- (t) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, infecting, escaping, leaching, dumping, boring, drilling or disposing into the environment of any hazardous substances.
- (u) "Requester" means any person who has the right to information under this Act and has made such a request under Section 10.
- (v) "State Information Tribunal" means the Tribunal established under Section 57 of the Act.
- (w) "Third party" means a person whose personal or commercial record is sought by the requester from a public body.
- (x) "Welfare Scheme" is any scheme introduced by a public body which concerns the welfare or well-being or growth or development and affects the interest of public in the whole of India or a part thereof.

3. Scope of the Act

This Act is in addition to the other laws for the time being in force and it shall supersede the provisions of other laws.

4. Access to Information not to be denied

Notwithstanding anything contained in any other Act for the time being in force, and subject to the provisions of this Act, no requestor shall be denied access to any record other than exceptions as provided in Chapter IV of this Act.

CHAPTER II PUBLICATION AND AVAILABILITY OF RECORDS

5. Maintenance and indexing of records

Subject to provisions of this Act and in accordance with the rules that may be prescribed, each public body shall ensure that all records covered under Section 2(s) of this act for public access to information are properly maintained, catalogued, indexed and preserved without destroying, deleting, obscuring or otherwise tampering with any information contained in them and update them regularly and from time to time.

Proviso:- Each public body shall maintain a directory of records available with it so as to provide all persons as regards the nature of records available with it.

6. Publication and availability of records

1. The Acts, and subordinate legislation such as ordinance, notifications, rules and regulations bye-laws, orders having the force of law in the territory of India shall be published by the Central Government, State Government or Union Territory Administration and made available at a reasonable price at adequate number of outlets as provided in **Appendix I**.
2. The Welfare Schemes, guidelines, directives, circulars, resolutions of Central Government, State Government and Union Territory Administration, shall be published and made available at reasonable price at adequate number of outlets as provided in **Appendix II**.
3. Not with standing anything provided in Copy Right Act 1957 publication under sub-section (1) and (2) will not contravene with Copy Right Act 1957 and provisions of any other law for the time being in force whether it is a priced publication or not.
4. Welfare Schemes of Central Government, State Government and union territory Administration shall be publicised through print and electronic media.

7. Computerisation of records

Each public body shall ensure with reasonable despatch that all records are computerised and connected through an effective network all over the country on different systems so that authorised access to such records is facilitated.

CHAPTER III ACCESS TO INFORMAITON

8. Duty to assist requesters

1. A public body shall take responsible steps to assist any person who:
 - a. wishes to make a request to it under Section 10.
 - b. Has made a request to it which does not comply with the requirements of that Section:
 - c. Wishes to make a request for access to and/or correction of personal records under Section 16.
2. A public body shall take reasonable steps to assist any person in the exercise of any other right under this Act.
3. A public body shall designate a person as officer to whom request is to be made.

9. To whom the right extends

This right extends to every person, not being an alien enemy.

10. How to make a request

1. A request for access to a record under the Act shall be made in writing to the public body that the requester believes has custody or control of the record and shall provide sufficient details to enable an employee of the public body to identify the record with a reasonable effort.
2. A request under this Act for access to a record must specify in which of the forms described in Section 14 the requester wishes to be given access.

Proviso: Provided that if the requester so desires, the public body shall furnish forms of request in English and regional language to facilitate access.

11. Transfer of request

1. Within 5 days after a request for access to a record is received by a public body which does not have the particular record, such a public body may transfer the request to appropriate public body under whose control the particular record is available, after giving written communication of the transfer to the requester, and the public body to whom the request has been so transfer shall respond within the time-limit specified in Section 12 (3).
2. Where a public body receives a request under Section 10 for access by another public body and is more closely related to the work of that other public body, it may, if such other public body so agrees, transfer the request to the concerned public body, within 5 days of the receipt of the request.
3. Where a request is transferred to another public body in accordance with Subsection (2), it shall be deemed to be a request made to such other public body and the public body to whom the request has been so transferred shall respond within the time-limit specified in Section 12(3).
4. Where a request to a public body is made for access to records,
 - (a) some of which are held by that public body and
 - (b) others of which are records, which, are required to, or may, be transferred to another public body under Subsections (1) or (2), the request may be transferred only in respect of records which relate to the work of such other public body.

12. Responding to request for information

1. Where access to a record is requested under this Act, the public body to whom the request is made, shall subject to provisions of this Act, within the period specified in Sub-Section 3, give written notice to the person who made the request as to whether or not access to the record will be given; and
 - (A) if access is to be given, give the requester access to the record, or
 - (B) if access is not given, the provision of this Act under which access is refused should be mentioned in the notice, Provided that, where the requester is a public interest group, journalist or a newspaper, such period shall be reduced to 3 days.
2. Where a public body fails to give access to a record in response to a request under this Act within the time limit specified under the provisions of Sub-section 3, it shall be deemed to have refused to give access without reasons.
3. For the purpose of Sub-sections (1) and (2) the specified period
 - (A) in any case where notice is not required to be given under the provisions of Section 27 is 10 days from the day on which the request was received by the public body; and

- (B) in any case where notice is required to be given under Section 27, is 15 days from the day on which the request was received by the public body.

13. Extension of time-limit for responding to request

A public body may extend the time-limit for responding to a request, only in case of extraordinary and exceptional circumstances to be determined by the facts of the case, not exceeding in any event an extension by a period of 7 days, after giving reasons in writing to the requester.

14. Form in which access is to be given

- (1) Where a record to which access is required to be given under the provisions of this Act is held by a public body in printed or written form, the public body shall give access to it by supplying a copy of it to the requester or, if the requester so requests, making it available to the requester for inspection.
- (2) Where a record to which access is required to be given the Act is held by a public body other than in printed or written form, the public body shall, if the requester so requests, give access to it by supplying a copy of it to the requester, or
 - (a) in the case of a record from which visual images or printed representations of those images are capable of being produced by means of equipment which is ordinarily available to the public body, by making arrangements for the requester to view those images, if the requester so requests, be supplied with copies or representations of them;
 - (b) in the case of a record in which words or information are recorded in a manner in which they are capable of being reproduced in the form of sound by equipment which is ordinarily available to the public body.
 - (1) by making arrangements for the requester to hear those sounds, or, if the requestor so requests.
 - (2) Where the public body is capable of producing as printed or written transcript of those sounds by the use of equipment which is ordinarily available to it, by supplying such a transcript to the requester;
 - (c) In the case of a record which is held on a computer, or in electronic or machine readable form, and from, which the public body is capable of producing a printed copy of the record of part of it, or of information derived from it-
 - (i) by the use of equipment which is ordinarily available to it: or
 - (ii) by processing the data in the record by use of a programme which is ordinarily available to it: or
 - (iii) both, by supplying such a copy to the requester, in the requester so requests.
- (3) If a requester has, in accordance with the provisions of Subsection (2), specified the manner in which the requester wishes to be given access to a record, the public body shall give access in that manner unless to do so would interfere unreasonably with the work of the public body, in which case access shall be given in another manner, provided that, it shall be for the public body to establish that giving access to a record in the form requested would interfere unreasonably with its work.
- (4) Where a requester has, in accordance with the provisions of Subsection (2), specified the manner in which the requester wishes to be given access and access has been given in some other manner, the requester shall not be required to pay a fee under Section 15 in respect of the giving of the access that is greater than the fee that the requester would have been required to pay had access been given in the manner specified.

- (5) Where a requester with a visual or auditory disability is prevented by that disability from reading, viewing or listening to a record in the form in which it is held by the public body, the concerned public body shall, if the requester so requests, take responsible steps to make the information contained in the record available to the requester in a form in which it is capable of being read, viewed or heard by the requester.
- (6) Where information is made available to a requester in accordance with the provisions of Subsection (5), the requester shall not be required to pay a fee under the provisions of Section 15, which is greater than the fee which the requester would otherwise have been required to pay.
- (7) Where a record is made available under this Act to any person for inspection, hearing or viewing, that person may make copies of, or record extracts from the record using equipment which he has brought with him for that purpose provided that to do so does not interfere unreasonably with the work of the public body, provided that it shall be for the concerned public body to establish that such recording by the requester will interfere unreasonably with its work.

Where a record is required by this Act to be supplied to any person, it shall, on request of that person, be supplied by posting it to that person.

15. Fees

1. No fees may be charged by a public body for giving a record under the Act except-
 - (a) Where the requester is supplied with copies of a record, such reasonable fees as many be prescribed by rules.

Provided that such fees may be waived, wholly or in part, where the requester is a public interest group, a journalist, or a newspaper and the request is not for any commercial purpose.

- (b) Where, in accordance with the provisions of Sub-Section C the requester is supplied with a copy of a record other than in printed or written form, then a fee not exceeding the cost of any blank tape, disc, film or other material on to which the record has been copied may be charged, not exceeding in any case the fees which the requester would have been required to pay, had the record been given in a printed or written form.
- (c) Where, in accordance with Section 14 Sub-Section (a) or (b) (ii) the requester is supplied with a transcript of a record, no fees may be charged to cover the costs of making the transcripts but only such fees shall be payable as would have been payable by the requester, had the records been in a printed or written form.
- (d) Where any of the foregoing are supplied by post then the costs of postage may also be charged.

16. Access to and correction of personal records

- (1) A public body shall, on request, provide a requester with personal information about the requester himself, which may be in the custody, or under the control, of such a public body.
- (2) Where a record (whether or not it is one to which access has been under the Act) contains information, relating to any person, which is inaccurate, the public body which holds the record shall, on the request of tht person, correct the information.
- (3) A request under the Subsection (2) shall be made in writing to the public body which holds the record and shall-

- (a) identify the record which contains the information which the requester regards as inaccurate;
 - (b) Specify the respect in which the requester regards the information as inaccurate; and
 - (c) Specify by which of the means described in Subsection (8), the requester wishes the correction to be made.
- (4) A public body to which a request under Subsection (2) is made, shall, without charge, and within 10 days of receiving the request, determine whether the information identified in the request is inaccurate and, if it so finds-
- (a) correct the information and supply a copy of the part of the record containing the correction to the requester without charge;
 - (b) determine, so far as is practicable, whether the inaccurate information is held by it in any record other than that identified in the request and, if it is , make the same correction to the information in such other record;
 - (c) determine, so far as is practicable, whether the information has been supplied by it to any other person and notify any such person of the correction which it has made; and
 - (d) supply to the requester without charge, a copy of every notification which it has made under paragraph (c)
- (5) A person who has been notified under paragraph (c) of Subsection (4) that he or she has been supplied with inaccurate information, shall, within 10 days of being so notified, correct that information, and inform the person to whom the information relates, in writing, that the correction has been made.
- (6) Where a public body determines that information referred to, in request under the provisions of Subsection (1) is not inaccurate, it shall, without charge, and within 10 days of receiving the request-
- (a) make a note in the record as near as possible to the point where the information appears, that the accuracy of the information is disputed by the requester and attach the request to the record;
 - (b) supply a copy of the note to the requester without charge;
 - (c) notify the requester of the name and position of the person who had determined that the information is not inaccurate; and
 - (d) notify the requester of the procedure for applying for internal review of the decision in accordance with the provisions of Section 28 and for making a complaint to the Information Commissioner in accordance with the provisions of Section 43 of the Act.
- (7) In this Section, "inaccurate" means incorrect, incomplete, misleading or not relevant to the purpose for which the record is held.
- (8) For the purposes of this Section, information may be corrected by amending, supplementing or subject to the provisions of Subsection (9), by deleting it.
- (9) A public body shall not delete information in response to a request under this Section unless it has supplied to the Chief Information Commissioner a copy of the part of the record containing the information which it proposes to delete; and any such copy shall be retained by the Chief Information Commissioner.

CHAPTER IV EXEMPT INFORMATION

17. Information exempt from disclosure

1. Subject to the provisions of this Act, a public body shall not be required to disclose exempt information.

2. A public body shall not refuse to give exempt information where this can be done by giving access to a copy of the record from which the exempt information has been deleted or by other means.
3. Where a record is withheld in accordance with this Section, the concerned public body shall, within the time-limit specified under the provisions of Section 12 notify the requester specifying
 - (a) the provisions of this Act under which the withheld information is considered to be exempt,
 - (b) the reason why the provision is considered to be applied to the information,
 - (c) the name and position of the person responsible for the decision that the record contains exempt information,
 - (d) the procedure for requesting for internal review of the decision in accordance with Section 28.
 - (e) The procedure for making a complaint to the Information Commissioner in accordance with Section 43 of the Act.
4. In the interpretation and enforcement of this chapter, the provisions shall be construed strictly in favour of the requester's right of access to information relating to affairs of the public body.

Categories of exempt information

18. Advice of Cabinet

A public body may refuse to any requester information as to the aid and advice given by Council of Ministers at the Centre to the president and Council of Ministers at the States to the Governor.

19. Defence

Information may be exempt if its disclosure would be likely to cause grave and significant damage to the defence of India or any of its States or territories.

20. Security

Information may be exempt if its disclosure would be likely to cause grave and significant damage to the lawful activities of the security or intelligence services.

21. International relations

- (1) Information may be exempt if its disclosure would be likely to cause grave and significant damage to the interests of India in the conduct of international relations.
- (2) In this Section, "international relations" means relations between the Government of India and-
 - (a) the Government of any other friendly foreign State; or
 - (b) an organisation of which only States are members.

22. Disclosure harmful to law enforcement

Information may be exempt if its disclosure is likely to

- (a) result in the commission of an offence;
- (b) harm the detection, prevention or suppression of law enforcement information in a grave and significant manner;
- (c) reveal the identify of a confidential source of law enforcement information;
- (d) facilitate an escape from legal custody;

- (e) prejudice the fair trial of any person against whom proceedings have been brought;
- (f) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system in a grave and significant manner.

23. Privacy and personal information

- (1) Information is exempt if its disclosure under this Act would involve the invasion of the privacy of an identifiable individual (including a deceased individual) other than the requester.
- (2) Information is not exempt under Subsection (1) if it relates to an individual who has consented to its disclosure to the requester.
- (3) Information is not exempt under Subsection (1) if it related to an individual who is deceased and-
 - (a) its disclosure is in the public interest insofar as it tends to indicate that the actions of, or failure to act by, a public body contributed to that individual's death; or
 - (b) the requester is, or is requesting with the consent of, the individual's next of kin.
- (4) The provisions of Subsection 3(b) shall not apply to information relating to the health of the individual which is contained in a record held by or on behalf of a registered medical practitioner who was responsible for the care of the individual unless the information is relevant to any claim which may arise out of the patient's death.
- (5) Information is not exempt under Subsection (1) if it relates to an individual acting in that individual's capacity as an office or employee of a public body except insofar as it consists of-
 - (a) a record relating to the health of the individual;
 - (b) information held by the public body for the purpose of personnel management.

24. Economic and commercial affairs

- (1) Information is exempt if and so long as its disclosure
 - (a) would be likely to cause grave and significant damage to the economy as a result of the premature disclosure of the proposed introduction, abolition or variation of any tax, duty, interest rate, exchange rate or instrument or economic management.
 - (b) would be likely to cause significant damage to the financial interests of the public body by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body for the acquisition or disposal of property or the supply of goods or services, or
 - (c) by revealing information to a competitor of the public body, would be likely to cause significant damage to the lawful commercial activities of the public body.
- (2) Information which has been compiled by a public body for the purpose of negotiations with its employees or their representatives in relation to their pay or conditions of employment, is exempt if and so long as its disclosure would be likely to cause significant damage to the position to be adopted by the public body in those negotiations.
- (3) Information is not exempt under Subsection (1) (c) if-
 - (a) it relates to the quality, suitability or safety of the goods or services supplied by the public body and the damage referred to in Subsection (1) (c) would be likely to result from the exercise of more informed choice by persons seeking to acquire those goods or services; or
 - (b) it consists of the results of any investigation carried out by, or any information supplied to, the public body, concerning a public safety hazard.
- (4) For the purposes of Subsection (3) (b)- "public safety hazard" includes the hazard or potential hazard to the public associated with any product which is offered for sale or otherwise

available to the public; or with any service provided by a public body; or with any substance which is released into the environment or work place or is present in food intended for human consumption, or with any form of public transport; or with any installation or manufacturing process or substance used therein, and : "the public" includes persons in their place of work.

25. Third party interest

- (1) Information is exempt-
 - (a) If it relates to commercial information which has been obtained by the public body from a third party who has consistently treated it as confidential; and
 - (b) If an so long as its disclosure would, by revealing information to a competitor of the third party, be likely to cause significant damage to the lawful commercial or professional activities of the third party.
 - (c) If it relates to organisational information of a voluntary organisation working for public interest.
- (2) Information is not exempt under Subsection (1) if-
 - (a) it relates to the quality, suitability or safety of the goods or services supplied by the third party and the damage referred to in Subsection (1) (b) would be likely to result from the exercise of more informed choice by persons seeking to acquire those goods or services; or
 - (b) it consists of the results of any investigation carried out by, or any information supplied to, the public body concerning a public safety hazard.
- (3) In this Section, "public safety hazard" has the same meaning as in Section 24(3)b.
- (4) Information is not exempt under this Section if the third party has consented to its disclosure to the requester.
- (5) Notwithstanding anything contained in this Section, a public body shall not refuse to disclose information which consists of the result of any investigation carried out by a public body where such information is used for promotional or advertisement purposes by the third party or by the public body itself.

26. Information of voluntary organisations

Information of voluntary organisations is exempt if it pertains to research activity of the organisation disclosure of which will jeopardise the functioning of the organisation or the cause which it is pursuing or will cause grave and significant damage to another person.

27. Giving of notice to third parties

- (1) Where, in response to a request under Section 10.
 - (a) a public body is considering giving access to a record containing personal information or commercial information or commercial information of a third party, and
 - (b) it is reasonably practicable for it to determine the identity and address of the concerned this party, it shall, as soon as is practicable and in any case not more than 4 days after receiving the request, give notice to such a third party in writing by fastest means of communication.
- (2) A public body shall not be required to give notice under Subsection 9b) where-
 - (a) the aforesaid third party is the requester or has consented to the disclosure of the information to the requester; or
 - (b) the information has previously been made public,
- (3) A notice under Subsection (1) shall

- (a) state that the public body is considering giving access to a record containing the information in question and describe that information;
 - (b) in the case of information relating to the personal affairs of the said third party, describe the provisions of Section 23.
 - (c) In the case of information relating to the commercial or professional activities of the concerned third party describe the provisions of Section 24.
 - (d) in case of information of voluntary organisation describe the provisions of Section 26.
 - (e) inform the concerned third party that it may, within 5 days of receipt of the notice, in writing, consent to the disclosure or may make written representations to the public body explaining why the information in the record is exempt.
- (4) Within 6 days of the end of the period for making representations referred to in Subsection (3)
- (d) the public body must decide whether or not to give access to the record or to part of the record, and give written notice of the decision to
 - (a) the request, and
 - (b) the third party concerned.
- (5) (a) If the public body decides to give access to the record, the notice must include a description of third party concerned.
- (c) within 20 days of the day on which notice was given but not earlier than 11 days of the date of notice, the public body concerned must give the requester access to the record containing the information unless, before the end of that period, the third party has complained to the Information Commissioner that the public body has decided to disclose information relating to his personal affairs or commercial activities.
- (6) Where a complaint has been made to the Information Commissioner under Sub-section 5(b), the concerned third party shall notify the concerned public body in writing within 10 days of the day on which the notice under Sub-section (4) is given, that such a complaint has been made, and the said public body shall not give access to such information until such time, as the Information Commissioner has notified it of the outcome of the complaint.
- (7) Where a public body-
- (a) has not been able to determine the identity and address of the relevant third party and, as a result, has not given a notice referred to in Subsection (1), and
 - (b) is of the opinion that personal information or information relating to such third party's commercial activities is not exempt under the provisions of Section 25 (a) or Section 25 1 (b), it shall notify the chief Information Commissioner accordingly, within 4 days of the date of request and shall not give access to the record containing the information without the consent of the Commissioner.
- (8) In this Section, "the concerned third party" means the person from whom the information was obtained and/or to whom the information relates'.

CHAPTER V

REVIEW OF DECISIONS

27. Request for internal review

- (1) A requester who has made a request to a public body under Section 10 may request such a body for effective internal review of any decision of the body.
 - (a) a failure by the public body to comply with any provision of this Act, or
 - (b) unreasonable behaviour by the public body in the exercise of any discretion under this Act.
- (2) A request under Sub-section (1) shall-
 - (a) be made in writing to the concerned public body.

- (b) Specify the decision in respect of which internal review is sought; and
 - (c) Be made within 60 days of the day on which the person making the request first had notice of the decision.
- (3) Notwithstanding anything contained in this chapter, no person shall be denied the right to approach the Information Commissioner directly with respect to any complaint under this Act.

28. Review by the public body

- (1) A public body to whom a request for internal review under the provisions of Section 28 has been made shall review the decision to which the request relates and shall, within 14 days of such a request-
- (a) confirm that decision or substitute a new decision for it;
 - (b) notify the requester accordingly, stating its reasons; and
 - (c) notify the requester of the procedure for complaining to the Information Commissioner under Section 10 of the Act.
- (2) For the purposes of this Section "decision" includes any at of, or any failure to act by, the public body.
- (3) The requester will have a right to be heard by public body to whom request for internal review is made.
- (4) The official of the public body to whom request is made under Section 10 shall not review the decision.

CHAPTER VI COUNCIL FOR ACCESS TO INFORMATION

29. Central Council for Access to Information

- (1) The Central Government may, by notification, establish with effect from such date as it may specify in such notification, a council to be known as Central Council for Access to Information (hereinafter referred to as the Central Council).
- (2) The Central Council shall consist of the following members, namely:
- (a) the minister in charge of the Home Ministry of the Central Government, who shall be its chairman, and
 - (b) such number of other official or non-official members representing such interest as may be prescribed in the rules.

30. Procedure of the Central Council

- (1) The Central Council shall meet as and when necessary, but at least two meetings of the council shall be held every year.
- (2) The Central Council shall meet at such time and place as the chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed in the rules.

31. Objects of the Central Council

The objects of the Central Council shall be to promote and protect the rights of persons such as:

- (a) right to be assured that every request for access to a public record shall be respected;
- (b) right to be assured that no such request shall be wrongfully denied by a public body;
- (c) right to be assured that accurate, reliable and authentic records shall be available;

- (d) right to have access to and correction of one's personal records;
- (e) right to be assured that one's personal record or records relating to one's commercial activities or information of voluntary organisation shall not be disclosed to others, except as otherwise provided in this Act;
- (f) right to be heard and to be assured that every person's interest will receive due consideration at the Tribunal;
- (g) right to seek redressal against wrongful withholding of records by a public body or the wrongful disclosure of personal records;
- (h) right to be educated about health and environmental hazards so as to protect and promote human rights and environmental interests;
- (i) right to be informed about various schemes for the uplift of the disadvantaged class of people.

32. The State Council for Access to information

- (1) The State Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as Council for Access to information (hereinafter referred to as the State Council).
- (2) The State Council shall consist of the following members, namely:
 - (a) the Minister in charge of the Home Ministry in the State Government who shall be its chairman;
 - (b) such number of other official or non-official members representing such interests as may be prescribed in the rules.
- (3) The State Council shall meet as and when necessary but not less than three meetings shall be held every year.
- (4) The State Council shall meet at such time and place as the chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed in the rules.

33. Objects of the State Council

The object's of every State Council shall be to promote and protect within the concerned State the rights of persons laid down in sub-clauses (a) to (I) of Section 32.

CHAPTER VIII OFFICE AND POWERS OF CHIEF INFORMATION COMMISSIONER AND INFORMATION COMMISSIONERS

34. Appointment of Chief Information Commissioner

The Chief Information Commissioner shall be appointed by State Government on the recommendation of Selection Committee referred to in Section 60 of this Act.

36. Qualifications for appointment of Chief Information Commissioner-

A person shall not be qualified for appointment as Chief Information Commissioner unless he-

- 1. is or has been a District Judge or
- 2. has for at least 2 years held office of Information Commissioner or
- 3. has for at least 5 years held the post of a secretary in legal department, Government of India or any State Government.

37. Jurisdiction-

The Chief Information Commissioner shall have jurisdiction over the functioning of Information Commissioners in the State and administrative and supervisory functions.

38. Functions-

The Chief Information Commissioner shall discharge the functions enumerated hereunder-

1. to facilitate publication of records as provided in Appendices I and II,
2. to ensure availability of records as provided in Appendices I and II at reasonable cost,
3. to ensure proper maintenance and indexing of records,
4. to frame rules for the functioning of Information Commissioner,
5. to submit annual report of its working to the legislature,
6. to recommend changes that it may deem necessary for its proper functioning,
7. to lay before the State Legislature such reports that may be demanded of it.
8. To perform such other function so as to give effect to provision of this Act.

39. Powers of Chief Information Commissioner

The Chief Information Commissioner shall have-

1. Original Powers of Information Commissioner to dispose of the complaint under section 43 of this Act.

Explanation:- If any vacancy arises in the office of the Information Commissioner for any reason whatsoever the chief Information Commissioner shall dispose of such complaints till the vacancy is filled,

2. Supervisory and administrative control over all the Information Commissioners in the State in the following matters namely:-
 - i. Calling for periodical returns regarding the institution, disposal, pending of cases,
 - ii. issuance of instructions regarding adoption of uniform procedures in the hearing of matters, furnishing of documents filed before Information Commissioner to parties in English or regional languages speedily as requested by parties,
 - iii. generally overseeing the functioning of the Information Commissioner to ensure that the objects and purposes of the Act are best served without any way interfering with their quasi judicial freedom.
3. to transfer a complaint filed before one Information Commissioner to another Information Commissioner if:-
 - i. the Information Commissioner does not have the jurisdiction to dispose of the complaint or
 - ii. if the Information Commissioner has interest in the subject matter of the complaint.
4. the same powers as are vested in a civil court under the Code of Civil Procedure (1908) while trying a suit in respect of the following matters
 - i. the summoning and enforcing attendance of any defendant or witness and examining the witness to all;
 - ii. the discovery and production of any document or other material object predicable as evidence;
 - iii. the reception of evidence on affidavits;
 - iv. issuing of any Commissioner for the examination of any witness;
 - v. any other matter which may be prescribed.

40. Appointment of Information Commissioner

The Chief Information Commissioner of the State shall appoint at least one Information Commissioner in each district on the recommendations of the Selection Committee referred to in Section 60 of this Act.

Proviso More than one Information Commissioner may be appointed by the Chief Information Commissioner in a district, if necessary, to discharge and to fulfill the purpose and objects of this Act.

41. Qualifications for appointment as Information Commissioner unless he-

- (i) is or has been or is eligible to be a District Judge or
- (ii) has at least three years' experience as a deputy collector or
- (iii) has for at least three years held the post of a secretary in the Legal Department of the Government of India or any State Government.

42. Jurisdiction

The Information Commissioner shall have jurisdiction to entertain complaints filed against a public body situated within the limits of the district.

43. Powers of Information Commissioner

The Information Commissioner shall in the disposal of any proceedings before it have the powers of Civil Court as specified in Sub-section 4 of Section 39.

44. Limitation

Complaint under Section 43 should be filed within one year from the date on which request made to a public body under Section 10, Section 15 or Section 16 is denied. Provided where a request is made under Section 28 for internal review the period of one year shall commence from the date on which the order of the public body reviewing the request is passed.

45. Procedure or receipt of a complaint

1. The Information Commissioner on receipt of a complaint shall refer a copy of the complaint to the public body mentioned in the complaint, directing it to give its version of the case within a period of 10 days or such extended period not exceeding 15 days as may be granted by the Information Commissioner;
2. Where the concerned public body on receipt of a complaint referred to it under Section 1 denies or disputes the allegations contained in the complaint or omits or fails to take any action to represent its case within the time given by the Information Commissioner. The Information Commissioner shall proceed to settle the complaint in the manner it deems fit.
3. In exercising its power under Sub-section 2 the Information Commission shall take into consideration the decision of the internal review committee, referred to in Section 29 if the matter has first been referred to the Review Committee.

46. Findings of the Information Commissioner

1. If the Information Commissioner determines that, under this Act, the concerned public body is required to give access to a record or a part of it, the Information Commissioner must ask such

- a public body to give the requester access to the record or the part of it, subject to any conditions the Information Commissioner considers appropriate.
2. If the Information Commissioner determines that under this Act, the concerned public body is required to refuse access to a record or part of it, it must order such a public body not to give access to the record or the part of it.
 3. If the Information Commissioner determines that under this Act, the concerned public body is required to correct the personal records or a part of it, it must order such a public body to correct the record or part of it.
 4. If the Information Commissioner determines that under this Act, the concerned public body is not required to correct the personal records or a part of it, it must order such a public body not to correct the record or part of it.
 5. Subject to the foregoing provisions, the procedure relating to the conduct of the proceeding by the Information Commissioner shall be such as may be prescribed by the rules.
 - (i) If after proceedings conducted under the provisions of Section 45, the Information Commissioner is satisfied that any of the allegations contained in the complaint is proved, it shall issue an order;
 - (a) providing compensation for loss or injury caused to a requester due to non-disclosure of records by a public body or to a third party due to disclosure of personal/commercial information;
 - (b) granting appropriate interim relief;
 - (c) to issuing interim injunctions
 - (d) to award punitive damages against public body if the officials are guilty of unconscionable conduct, lack of good faith and unfair dealing in the course of implementation of this Act;
 - (e) to give such other relief in deserving cases as Information Commissioner thinks appropriate;
 - (f) to provide for adequate costs to the parties.

47. Burden of proof

In any proceedings before the Information Commissioner the burden of establishing that access to a record or part of a record should not be given shall be on the public body which holds the record, except where the proceedings relate to information which is claimed to be exempt under the provisions of Section 17 when the burden shall be on the requester to establish that disclosure of information would not be contrary to this Act. Where proceedings relate to information which is claimed not to be exempt under the provisions of Section 17, it is up to the party to establish that the requester has no right of access under this Act to the record or a part thereof.

48. Decisions of the Information Commissioner

At the conclusion of a complaint the Information Commissioner

- (a) may make an order requiring the public body to take such action as it deems necessary, within such period of time as may be specified in the order;
- (b) shall give notice of its findings, stating its reasons and enclosing a copy of any order which it has made to the requester, the public body and any other person who made representations to the Information Commissioner.

Every proceeding before the Information Commissioner shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of Indian Penal Code (45 of 1860) and the Information Commissioner shall be deemed to be a Civil Court for the purpose of Section 195 of Chapter XXVI of code of Criminal Procedure 1973 (2 of 1974).

49. Finality of orders of Chief Information Commissioner and Information Commissioner

Every order of the Chief Information Commissioner and Information Commissioner shall, if no appeal has been preferred against such an order under the provisions of this Act shall be final.

50. Enforcement of order of Chief Information Commissioner and Information Commissioner

Every order made by Chief Information Commissioner and Information Commissioner may be enforced by Chief Information Commissioner and Information Commissioner in the same manner as if it were a decree or order made by a Court in a suit pending here in and it shall be lawful for the concerned Chief Information Commissioner or Information Commissioner to send in the event of its inability to execute it, such an order to the Court within the local limits of whose jurisdiction.

- i. the complainant ordinarily resides or carries on business or works for personal gain or
- ii. the public body against which the complaint was made is situated.

51. Terms and Conditions

1. The Chief Information Commissioner and the Information Commissioner shall hold office as such for a term of five years from the date of appointment.

Provided that the Chief Information Commissioner and the Information Commissioner shall be eligible for appointment for a second term.

Provided that the Chief Information Commissioner or Information Commissioner shall not hold office after he has attained the age of 70 years.

2. Terms and conditions of service, including remuneration of the Chief Information Commissioner and the Information Commissioner, shall not be varied to their disadvantage during their tenure of office.

Provided that the remuneration of Chief Information Commissioner and Information Commissioner shall be fixed by the State Government on the recommendation of Selection Committee referred to in Section 60 of this Act.

52. Vacancy

If any vacancy arises in the office of the Chief Information Commissioner or Information Commissioner owing to absence, illness or any other cause the State Government shall immediately fill the vacancy.

Explanation: The State Government shall maintain a panel of Chief Information Commissioner and Information Commissioner for the purpose of filling the vacancy as and when it arises.

53. Resignation and Removal

The Chief Information Commissioner and Information Commissioner by 3 months' notice in writing addressed to the State Government may resign his office:

1. The Chief Information Commissioner and Information Commissioner shall unless permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice.
2. The Chief Information Commissioner and Information Commissioner shall not be removed from his office except by an order of the Governor passed after an address by Assembly supported by a majority of total membership of the Assembly and by a majority of not less than two-thirds of the members of assembly present and voting and has been presented to the Governor in the same session for such removal on the ground of proved misbehaviour or incapacity.

54. Salaries and allowances and other terms and conditions of service of Chief Information Commissioner and Information Commissioner

The salary and allowances payable to and other terms and conditions of services including pension, gratuity and other retirement benefits of the Chief Information Commissioner and Information Commissioner shall be such as may be prescribed by the State Government.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chief Information Commissioner and Information Commissioner shall be varied to his disadvantage after his appointment.

55. Staff of office of the Chief Information Commissioner and Information Commissioner

1. The State Government shall determine the nature and categories of the officers and other employees required to assist Chief Information Commissioner and Information Commissioner to discharge his duties and powers as it may deem fit.
2. The salaries and allowances and conditions of service of the officers and other employees of the office shall be such as may be prescribed by rules made by the State Government.
3. The State Government shall provided adequate infrastructure to the Chief Information Commissioner and Information Commissioner to discharge the powers, functions and duties conferred under this Act.

56. Dismissal of frivolous, vexatious or malicious complaint

Where a complaint instituted under Section 43 or appeal filed under Section 61 is found to be malicious, frivolous or vexatious, the Chief Information Commissioner or Information Commissioner or State Information Tribunal as the case may be for reasons to be recorded in writing dismiss the complaint or appeal.

CHAPTER VIII TRIBUNAL

57. Establishment of State Information Tribunal

The State Government shall by notification establish State Information Tribunal to exercise the jurisdiction, power and authority conferred on the State Information Tribunal under this Act.

58. Composition of Tribunals

- (i) The State Information Tribunal shall consist of a Chairman, Vice Chairman and three other members.
- (ii) Subject to the other provisions of this Act, the State Information Tribunal shall be presided over by the Chairman and in the absence of Chairman by the Vice-Chairman
- (iii) No proceedings of the State Information Tribunal shall be conducted without the presence of Chairman or Vice-Chairman.
- (iv) The proceedings of the State Information Tribunal will be conducted by minimum three members.

59. Qualifications for appointment of Chairman, Vice-Chairman and other members.

- (1) A person shall not be qualified for appointment as the Chairman unless he-
 - (a) is, or has been, a judge of a High Court or,
 - (b) has, for at least two years, held the office of Vice-Chairman.
- (2) A person shall not be qualified for appointment as the Vice-Chairman, unless he
 - (a) is eligible to be a Judge of a High Court, or
 - (b) has for at least two years, held the post of a Registrar of High Court
- (3) A person shall be qualified for appointment as a Member if he is a person who is of ability, integrity and standing and has adequate knowledge or experience in dealing with problems relating to media, communication, law, administration, public affairs or industry. One of the members shall be a woman.

60. Appointment of Chairman, Vice Chairman and Members of State Information Tribunal

The chairman, vice chairman and members of tribunal shall be appointed by the State Government on the recommendation of the selection committee.

The selection committee shall consist of:-

- (j) Chairman of State Council
- (ii) Secretary of Home Ministry of State Government
- (iv) Nominee of Chief Justice of High Court
- (v) Other two members representing public interest group selected from the national council for access to information. One of the member shall be a woman.

61. Jurisdiction of State Information Tribunal

Subject to the other provisions of this Act the State Tribunal shall have jurisdiction,

- (a) to entertain appeals against the orders of Chief Information Commissioner or any Information Commissioner.
- (b) To call for the records and pass appropriate orders, in any dispute under this Act., which is decided by any Information Commission where it appears to the State Information Tribunal that such Information Commission or Chief Information Commission has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction so reserved or has acted in the exercise of its jurisdiction illegally or with material irregularities.

62. Powers of State Information Tribunal

The State Information Tribunal shall in the disposal or any proceedings before it, have

- (a) The power of civil court as specified in Sub-section (4) of Section 39;
- (b) The power to issue an order to the public body directing it to do any one or more of the things referred to in Sub-section (I) and (ii) of Section (46) and follow such procedure as may be prescribed by rules, including the power to set aside the orders of the Information Commissioner and the Chief Information Commissioner.

63. Limitation for appeal

1. The Chairman, Vice Chairman and members of Tribunal shall hold office as such for a term of 5 years.

Provided that the Chairman, Vice Chairman and members of the Tribunal shall be eligible for appointment for a second term.

Provided no Chairman, Vice Chairman or member shall hold office after he has attained 75 years of age.

2. Terms and conditions of service, including remuneration of Chairman, Vice Chairman and members, shall not be varied to their disadvantage during the tenure of office.

Provided that the remuneration of Chairman, Vice Chairman and member shall be fixed by State Government or the recommendation of Selection Committee referred to in Section 60 of this Act.

3. Terms and conditions of service of staff of State Information Tribunal shall be the same as those of staff of Chief Information Commissioner and Information Commissioner referred to in Section 55 of this Act.

66. Vice-Chairman to act as Chairman or to discharge his function in certain circumstances

1. in the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman until the date on which Chairman's appointment is made in accordance with the provisions of this Act to fill such vacancy
2. when the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

67. Finality of order of State Information Tribunal

Every order to the State Information Tribunal shall be final and no further appeal shall lie.

68. Enforcement of order of State Information Tribunal

The order of the State Information Tribunal shall be enforced in the same manner as the order of Chief Information Commissioner and Information Commissioner.

69. Penalties

- (1) Any person who destroys, disfigures, deletes, obscures or otherwise tampers with a record or part of a record held by a public body, which is required to be preserved under the provisions of Section 5, and thereby adversely affects a person's right to quick access to accurate

information, is guilty of an offence and liable on conviction or indictment to imprisonment of a term not exceeding six months or a fine, or both;

- (2) A person charged with an offence under Subsection (1) will have to prove beyond reasonable doubt that at the time of the alleged offence he did not know, and could not have known with reasonable care and caution that the record was one to which the provisions of Section 5 apply;
- (3) Where a public body against whom a complaint is made, or as the case may be by the National Tribunal, the person responsible for withholding the information against such an order, or disclosing personal commercial information ordered by the Tribunal to be withheld, shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to 3 years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both;

Provided that the concerned Tribunal may, if it is satisfied that the circumstances of the case so require, impose a sentence of imprisonment or fine, or both, for a term less than the minimum term and the amount less than the minimum amount specified in this Section.

For the purpose of executing the orders, the provision of Sections 418 to 422 of the Code of Criminal Procedure 1973 shall, with such modifications as may be necessary, be applicable and the Tribunal shall be deemed to be the Court of passing the sentence.

70. Lawyers not to appear before Information Commissioner, Chief Information Commissioner and Tribunals

Lawyers shall ordinarily not be permitted to be engaged for any proceedings before the Information Commissioner, Chief Information Commissioner and Tribunal. However, the opposite party may be allowed a lawyer only if

- (1) the complainant has engaged a lawyer;
- (2) with the consent of the complainant; or
- (3) if the Tribunal desires their appearance due to legal complexities of the case for reasons to be recorded in writing and with the permission of the complainant; or

71. Exclusion of writ jurisdiction of the High Court

The decisions of the Tribunal shall be, under Article 323 B of the Constitution of India and excluded from writ jurisdiction of the High Court.

CHAPTER IX MISCELLANEOUS

72. Immunity to Chief Information Commissioner, Information Commissioner and members of Tribunal and their staff for acts done in good faith

No suit, prosecution or other legal proceedings shall lie against the Chief Information Commissioner, Information Commissioner, Members of the Tribunal or any officer or person acting under the direction of the Chief Information Commissioner, Information Commissioner or Tribunal for executing any order made by it or in respect of anything which is in good faith done or

intended to be done by such member, officer or person under this Act or under any rule or order made thereunder.

73. Immunity to public interest groups for acts done in good faith

No suit, prosecution or other legal proceedings shall lie against any requester or voluntary consumer organisations or public interest groups or members thereof taking up activities or cases for protecting human rights, interests of consumers, disadvantaged groups of people or environmental interests, in respect of anything which is, in good faith, done or intended to be done by such organisation or member under this Act or under any rule or order made thereunder.

74. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty; provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

75. Constitution of Central Data Bank

1. Where data relating to the creditworthiness of persons is held by several credit institutions at a time, such data in respect of each person shall be collected and maintained by a Central Data Bank to be constituted at the centre.
2. Any person may, by making a request in writing to such a data bank, obtain information about his own creditworthiness, in a meaningful and effective manner by paying such fees as may be prescribed by Central Government for the purpose.

76. Repeal of Official Secrets Act 1923

The Official Secrets Act 1923 is hereby repealed.

77. (1) Power to make rules

The Central Government may by notification make rules for carrying out the provisions of Section 30(2), 31 and 75 of this Act and any other rules for carrying out the provisions of this Act.

- (3) The State Government may by notification make rules for carrying out the provisions in Sections 15, 33(2)b, 33(4) AND 55 OF THIS Act and any rules other than that made under Sub-section above to carry out the provisions of this Act.

78. Laying of rules

- (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 the Parliament, while it is in Session for a total period of thirty days which may be comprised in one session or 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 to 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 modified form or be of

- no effect as the case may be however that any such modification or annulment shall be without prejudice to the validity of anything done previously under that rule
- (2) Every rule made by the State Legislature shall be laid as soon as may be after it is made before State Legislature.

CHAPTER X COMMUNITY RIGHT TO KNOW

79. Duty of industry to disclose

1. The State Government shall within 3 months of the enactment of this Act publish the list of hazardous substances as notified under Environment Protection Act 1986. The State Government may add from time to time hazardous substances to this list.
2. (i) The list prepared by the State Government under Sub-section (1) shall also mention the threshold quantity of each hazardous substance specified therein.
(ii) The threshold quantity of hazardous substance is the limit beyond which the production, storage, transportation, use or emission of the substance would be hazardous to the health or life of the community or to the environment.
3. The threshold quantity of each hazardous substance shall be determined under Subsection (2) after taking into account the toxicity, reactivity, volatility, 'dispersibility', combustibility, or flammability of such hazardous substance.
4. The list prepared under Sub-section (2) shall be made available by the State Government to any person on request and shall also be made available to each industry.
5. The list prepared by a State Government under Sub-section (1) as well as the threshold quantities determined under Subsection (2) may be revised by the concerned State Government from time to time, taking into consideration the criteria laid down in Subsection (3)
6. (i) Each industry shall, at the beginning of each year, bring out a publication containing identification of the routes that are likely to be used for transportation of the hazardous substances, identification of the places where they may be stored or used as well as identification of the areas and communities that are likely to be affected in case of any accidental release of the substances or any hazard relating to the substance.

(ii) The publication under Subsection 6(I) shall also contain a description of the emergency equipment maintained by the industry as well as the procedure and measures to be adopted by the industry in case of an emergency or accident relating to the use, production, storage, transportation or release of the hazardous substances.
(iii.) The publication under Subsection 6(I) shall also contain a description of the antidote measures to be adopted by the industry in case of an accident or hazard in such an industry.
7. Every industry shall, at the end of each year, publish a list containing a description of the names and quantities of hazardous and substances that had been produced, transported, stored, used or released into the environment, whether routinely or accidentally during that year, by such an industry, where such quantities exceed the threshold limits determined under Subsection (2).
8. Every publication under Subsection (6) and (7) shall be supplied by the industry to any person on request as well as to the concerned State Government.
9. If release of a hazardous substance in excess of the threshold quantity occurs from an industry at which such a substance is produced, used or stored or where any hazard or accident takes

place in such an industry, then the owner or operator of the concerned industry shall immediately notify the communities that may be adversely affected by such hazard or release, as the case may be, of the measures that may be adopted by them to protect themselves against the adverse effects of such release.

10. In the event of any accident or hazard in an industry caused by the production, storage, transportation, use or emission of any hazardous substances in excess of the threshold quantities laid down in Subsection (2), the concerned industry shall be liable to undertake antidote measures for safeguarding the environment against damage or destruction as well as the health and lives of the community.
11. Each industry shall be required to appoint a particular day in each week when the public shall be entitled to visit the site of the industry and to scrutinize the production processes, the storage and transport facilities as well as the emergency equipment maintained by the industry.
12. Any person or the State Government, as the case may be, may make a complaint to the Information Commissioner, that the provisions of this Act have not been complied with by an industry.

Appendix-I

[See Section 6 (1)]

Records	Outlets	Language
1. Records of Central Government	Centre notified by Central Government at each district and Concerned Government Department and Tribunal	English and Hindi
2. Records of Central Government in regional languages	Centre notified by Central Government at each district and Concerned Government Department and Tribunal and Centre notified by Government at each district	Regional languages
3. Records of State Government	Centre notified by State government Concerned Govt. Department and Tribunal	English and regional languages
4. Records of Union Territory	Centre notified by the Government of Union Territory. Government Department and Tribunal	Local language and Regional language

Appendix-II
[See Section 6(2)]

Records	Outlets	Language
1. The Welfare Schemes, guidelines, direction, circulars, resolutions of Central Government	Centre notified by Central Government, concerned department	English and Hindi
2. The Welfare Schemes, guidelines, direction circulars, resolutions in regional language	Centre notified by State Government, concerned department and Tribunal	Regional language
3. The Welfare Schemes guidelines, direction circulars, resolutions of State Government	Centre notified by State Government, concerned department and Tribunal	Regional language
4. The Welfare Schemes, guidelines, direction circulars, resolutions of Union Territory	Centre notified by Union Territory Administration	Regional language
5. Acts, rules, regulations, bye laws relating to colleges, university	At school, college or university as the case may be	English and regional language
6. Jain manuals, rules laws, etc.	At prisons and concerned courts	English and regional language
7. Record of specific Information on legal rights of patients in respect of medical facility/services given at the hospital	At the hospital	English and regional language

ACCESS TO INFORMATION BILL

An Act to provide a legal right to persons, whether citizens of India or foreign nationals, not being alien enemies, to obtain Information from the Governments, Government instrumentalities as well as crucial public services like transport, banking, insurance etc. and for that purpose, to make provisions for the constitution of the office of Chief Information Commissioners, Information Commissioners as well as the establishment of quasi-judicial Tribunals for the settlement of disputes relating to Access to Information and for matters connected therewith. Be it enacted by the Parliament in the 47th year of the Republic of India.

Prefatory Note-Statement of Objects and Reasons

1. The access to Information Bill 1996 seeks to provide the people with a legal Right to Access to Information about the Governments- Central, State as well as local, Government instrumentalities, and all other bodies falling within the definition of State under Article 12 of the Constitution of India as well as vital public services like banking, insurance, transport, etc. It also seeks to provide people with a legal right to obtain and to correct their personal records held by such bodies, and to correct their personal records held by such bodies, and for the aforesaid purposes, it seeks to make provisions for the constitution of Information Commissioners in each district, Chief Information Commissioner in each State, as well as establishment of quasi-judicial Tribunal for the settlement of disputes relating to Access to Information and for matters connected herewith.
2. It seeks, *inter alia*, to make the Governments, their undertakings as well as public services like transport, banking, insurance, etc. more accountable to the public by
 - (a) giving the public a right of access to records, and
 - (b) specifying limited and specified exemptions to the right of access.
3. The Bill also confers a right on persons to have access to personal records in the custody or control of such bodies defined as public bodies under the Act and to correct such records, where they are inaccurate.
4. Chapter X also seeks to create an obligations the part of industry
 - (i) To inform the concerned State Government and the community about the hazardous chemicals and substances being produced, stored, transported, used or being released into the environment by such industry
 - (ii) To provide information to the community about the harmful effects of any chemicals or substances being released by such an industry into the environment;
 - (iii) To undertake emergency planning to deal with any accident or hazard relating to the chemical or substances dealt with by such industry.
 - (iv) To notify the State Government, the community and the State emergency facilities of any accident or hazard in the industry which is likely to affect adversely the community and/ or the environment;
 - (v) To undertake emergency measures as well as antidote measures in as of any accident or hazard in such an industry.

Notes on Sections

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| Clause 1 | Provide for the extension of the Act to the whole of a India except Jammu and Kashmir. |
| Clause 2 | Lays down the definitions. |
| Clause 3 | Provides for the scope of the Act |
| Clause 4 | Prescribes that the right of access to records shall override any other provision of law denying access to records. |

- Clause 5 Provides for the maintenance and regular indexing by public bodies of all legislation's, reports and records specified therein
- Clause 6 Provides for the mandatory publication of all legislation, by-laws, manuals, rules and regulations and welfare schemes, guidelines, directives, circulars, resolutions, of the Governments, whether Central, State or local and availability of the same at adequate outlets and reasonable prices.
- Clause 7 Proves for computerisation of all records of the Government and connection of the same through networks.
- Clause 8 Lays down the duty of the public bodies to assist all requesters under the Act.
- Clause 9 Provides for the extension of the right to access to all persons, not being alien enemies.
- Clause 10 Lays down the procedure for requesting access to information
- Clause 11 Provides for transfer of requests from one public body to another where the records are held by or are more closely related to the work of such other public body.
- Clause 12 Lays down the procedure and time limit for responding to a request for access to record.
- Clause 13 Provides for extension of time-limit for responding to a request for access to a record.
- Clause 14 Provides for the various forms in which access to a record may be requested and given.
- Clause 15 Prescribes the fees to be paid for inspection of and/or for obtaining copies of the records requested and also provides for waiver of fees under circumstances mentioned therein.
- Clause 16 Provides for the right of a requester to obtain information about himself held by a public body and to correct such information where it is inaccurate.
- Clause 17 Provides for non-disclosure of exempt information as well as the procedure to be followed by a public body when withholding such exempt records.
- Clause 18 Provides for non-disclosure of information relating to the aid and advice to the Government
- Clause 19 Provides for non-disclosure of information where disclosure is likely to cause grave and significant damage to the country or to any of its States or territories.
- Clause 20 Provide for non-disclosure of information where disclosure is likely to cause grave and significant damage to lawful activities of security services.
- Clause 21 Provides for non-disclosure of information where such disclosure is likely to cause grave and significant damage to the conduct of international relations.
- Clause 22 provides for non-disclosure of information where such disclosure is likely to cause grave and significant damage to law enforcement activities.
- Clause 23 provides for non-disclosure of information involving the invasion of the privacy an identifiable individual.
- Clause 24 Provides for non-disclosure of information where such disclosure is likely to cause grave and significant damage to the economic or commercial affairs of a public body. It also laws down circumstances where such disclosure is permitted.
- Clause 25 Provides for non-disclosure of information where such disclosure is likely to cause grave and significant damage to the lawful commercial or professional activities of a third party. It also provides for circumstances where such information is not exempt.
- Clause 26 Provides for non-disclosure of information of voluntary organisation, if it is pertaining to research activities, etc.
- Clause 27 Provides for notice to third parties.
- Clause 28 Lays down the procedure or request for internal review of a decision by a public body.
- Clause 29 Provides for review of decision by public body.
- Clause 30 Provides for the establishment and composition of a Central Council for Access to Information.
- Clause 31 Provides for the procedure of the Central Council.
- Clause 32 Lays down the objects of the Central Council.

- Clause 33 Provides for the establishment and composition of the State Council for Access to Information.
- Clause 34 Provides that the objects of the State Council shall be to promote and protect within the concerned State the rights of persons as laid down in the clause relating to the objects of the Central Council.
- Clause 35 Provides for the appointment of the Chief Information Commissioner.
- Clause 36 Provides for qualifications for appointment of Chief Information Commissioner.
- Clause 37 Lays down the Jurisdiction of Chief Information Commissioner
- Clause 38 Lays down the functions of the Chief Information Commissioner
- Clause 39 Lays down the powers of the Chief Information Commissioner
- Clause 40 Provides for the appointment of Chief Information Commissioner
- Clause 41 Provides for qualifications for appointment of Information Commissioner.
- Clause 42 Provides for the jurisdiction of Information Commissioner.
- Clause 43 Lays down the powers of the Chief Information Commissioner
- Clause 44 Lays down the limitations of time for filing the complaint to the Information Commissioner.
- Clause 45 Provides for procedure on receipt of a complaint by Information Commissioner
- Clause 46 Lays down that the Information Commissioner shall make an order requiring the public body to take such action as he deems necessary
- Clause 47 Provides that the burden of establishing that a record is exempt under the Act will be on the public concerned.
- Clause 48 Provides for the decision of the Information Commissioner
- Clause 49 Provides that an order of an Information Commissioner shall be deemed to be final if no appeal is preferred against such an order
- Clause 50 Provides for enforcement of orders by the Chief Information Commissioner and Information Commissioner
- Clause 51 Provides for Terms and conditions of service of Chief Information Commissioner and Information Commissioner
- Clause 52 Provides for arising of vacancy in the office of the Chief Information Commissioner and Information Commissioner.
- Clause 53 Lays down the procedure of resignation and removal of Chief Information Commissioner and Information Commissioner.
- Clause 54 Provides for salaries and allowances and other terms and conditions of service of Chief Information Commissioner and Information Commissioner
- Clause 55 Provides for staff of office of the Chief Information Commissioner and Information Commissioner
- Clause 56 Provides for the dismissal of frivolous and/or malicious complaint
- Clause 57 Provides for establishment of State Information Tribunals
- Clause 58 Provides for the composition of State Information Tribunals
- Clause 59 Lays down the qualifications for appointment of Chairman, Vice-Chairman and other Members
- Clause 60 Provides for appointment of Chairman, Vice-Chairman and Members of State Information Tribunal
- Clause 61 Provides for the jurisdiction of the State Information Tribunal
- Clause 62 Lays down the power of State Information Tribunal
- Clause 63 Lays down the limitation for appeal
- Clause 64 Lays down the terms and conditions of service of Chairman, Vice-Chairman and other members
- Clause 65 Provides for the resignation and removal of the Chairman, Vice-Chairman and members

- Clause 66 Lays down that the Vice-Chairman to act as Chairman or to discharge his function in certain circumstances
- Clause 67 Provides that an order of State Information Tribunal shall be final
- Clause 68 Provides for enforcement of orders by the State Information Tribunal
- Clause 69 Provides for penalties in cases where any person fails to comply with any order of a Tribunal or destroys, disfigures or tampers with any record held by a public body and required to be preserved under the Act.
- Clause 70 Provides that lawyers would not ordinarily be permitted to appear before the Chief Information Commissioner, Information Commissioner and Tribunal except under certain circumstances specified therein
- Clause 71 provides for the exclusion of the decisions of the Tribunal from the writ jurisdiction of the High Court
- Clause 72 Provides for immunity from prosecution to any member of the Tribunal, Chief Information Commissioner, Commissioner or other officer for any acts which in good faith is done or intended to be done by them under the Act.
- Clause 73 Provides for immunity from prosecution to any requester including public interest groups for anything which in good faith is done by them under the Act
- Clause 74 Confers powers on the Central Government to make provisions for removal of any difficulty that may arise in giving effect to the provisions of this Act
- Clause 75 Provides for the constitution of a Central Data Bank for collecting and maintaining data relating to the creditworthiness of persons.
- Clause 76 Provides for the repeal of the Official Secrets Act 1923
- Clause 77 Provides for power to make Rules by Central Government and State Government
- Clause 78 provides for laying of rule
- Clause 79 Seeks to make provisions whereby industry will be obliged to disclose to the community information relating to its chemical releases, emergency preparedness, etc
- Appendices-1 and 2 for outlets of records.

Financial Memorandum

1. Clause 5 seeks to make provisions for the maintenance, preservation and indexing of all Acts, public records, etc mentioned therein. It is not possible to indicate at this stage the exact expenditure that would be involved for such maintenance, preservation and indexing of records. The Public Records Act 1994 also casts such an obligation.
2. Clause 6 seeks to make provisions for the publication and availability at reasonable prices of all Acts, rules and regulations, manuals, by-laws, whether of the Central, State or local governments as well as reports of inquiry committees, reports of welfare schemes, etc as specified therein. It is not possible to indicate at this stage the exact expenditure that would be involved for such publication and distribution
3. Clause 7 provides for computerisation of all legislation, manuals, etc specified in Clause 6 and connecting them by a network throughout the country on different systems. It is not possible to indicate at this stage the exact expenditure that would be involved for such computerisation and networking.
4. Clause 12 seeks to make provisions for responding to requests for Access to Information. It would, therefore, be necessary for each State and Union Territory to establish a network for responding to such requests. It is not possible to indicate at this stage the expenditure and would be involved in establishing such a network.

5. Clause 30 provides for establishment of a Central council for Access to Information at the Centre. It is not possible to indicate at this stage the exact expenditure that would be involved in the constitution and working of such a council.
6. Clause 33 provides for the establishment, in each State, of a State Council for Access to Information. It is not possible to indicate at this stage the exact expenditure that would be involved in the constitution and working of such a council.
7. Clause 35 and 40 seeks to make provisions for the appointment of the office of Chief Information Commissioner for Access to Information in each State and Union Territory and Information Commissioners at each District. It may, therefore, be necessary to establish a staff network to assist the Commissioner in the performance of his duties. It is not possible at this stage to indicate the exact expenditure that would be involved in setting up such a network.
8. Clause 57 provides for establishment of State Tribunals in each State. Clause appointment of members of the Tribunal. These proposals, therefore, involve expenditure on selection committee members, salaries of members of Tribunal and other expenses incidental to, and connected with, establishment and working of such Tribunals. It is not possible at this stage to indicate the exact expenditure that would be involved in setting up such a network.
9. Clause 75 seeks to make provisions for the constitution of a Central Data bank at the Centre. Such a bank shall compile and maintain data relating to the creditworthiness of persons where such data is held by several credit institutions at a time. It is not possible to indicate at this stage the exact expenditure that would be involved in the constitution and working of such a Data Bank.

Memorandum of Delegated Legislation

1. Clause 15 provides for prescription of reasonable fees by State Government for obtaining records from public body.
2. Clause 30(2) b provides for prescription by Central Government the number of official, no-official members of Central Council representing other interest.
3. Clause 31(2) provides for prescription by Central Government the procedure for transaction of business of Central Council.
4. Clause 75(2) provides for prescription of fees by Central Government for obtaining information about creditworthiness from Central Data Bank.
5. Clause 33(2) (b) provides for prescription by State Government the number of official or non-official members of State Council representing other interest.
6. Clause 33(4) provides for prescription by State Government the procedure for transaction of business of State Council.
7. Clause 55(2) provides for prescription of terms and conditions of service of stays of office of the Chief Information Commissioner and Information Commissioner.