

# CHRI DRAFT

## Central Right to Information Rules 2005 Model Rules Proposed by CHRI, June 2005

In exercise of the powers conferred under section 27 of the *Right to Information Act 2005* (Act No. X of 2005), the Central Government hereby makes the following rules for carrying out the purposes of the said Act, namely:-

### 1. Title and Commencement

- (1) These rules may be called the Central Right to Information Rules 2005
- (2) They shall come into force on the date of their publication in the Official Gazette.

### 2. Definitions

In these rules unless the context otherwise requires:

- (a) “Act” means the Right to Information Act 2005 (Act No. X of 2005);
- (b) “Appellate Authority” refers to the officers appointed to hear first appeals under s.19(1) of the Act;
- (c) *[Insert any other definitions as necessary]*

### 3. Proactive Disclosure

- (1) Every public authority in every office and administrative unit shall designate one computer that can be used by the public to access information on the internet which is required to be published under section 4(1)(b) of the Act.
- (2) The public authority shall *suo motu* publish information as per section 4(1)(b) of the Act as follows:

Clause 4(1)(b)	Particulars of information	Minimum Updating	Minimum Form*
(i)	Particulars of its organisation, functions and duties;	12 months	Noticeboard; hard copy in every office/unit; internet
(ii)	Powers and duties of its officers and employees;	12 months	Hard copy in every office/unit; internet
(iii)	Procedure followed in the decision making process, including channels of supervision and accountability;	12 months	Hard copy in every office/unit; internet
(iv)	Norms set by it for the discharge of its functions;	3 months	Hard copy in every office/unit; internet
(v)	Rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;	3 months	Hard copy in every office/unit; internet

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(vi)	Statement of the categories of documents that are held by it or under its control;	3 months	Hard copy in every office/unit; internet
(vii)	Particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;	3 months	Hard copy in every office/unit; internet
(viii)	Statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advise, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;	12 months	Hard copy in every office/unit; internet
(ix)	Directory of its officers and employees;	1 month	Hard copy in every office/unit; internet
(x)	Monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;	6 months	Hard copy in every office/unit; internet
(xi)	Budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;	3 months	Hard copy in every office/unit; Noticeboard in relation to budget for local area; Internet
(xii)	Manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;	1 month	Hard copy in every office/unit as pertains to subsidy programmes administered by that public authority; Collated copy of all such information on the internet
(xiii)	Particulars of recipients of concessions, permits or authorisations granted by it;	1 month	Hard copy in every office/unit as pertains to subsidy programmes administered by that public authority; Collated copy of all such information on the internet
(xiv)	Details in respect of the information, available to or held by it, reduced in an electronic form;	3 months	Internet
(xv)	Particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;	12 months	Noticeboard, internet, regular updates through the media

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(xvi)	Names, designations and other particulars of the Public Information Officers;	1 month	Noticeboard, internet, regular updates through the media
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\* These Rules prescribed the minimum requirements. However, reference must be made to section 4(2), (3) and (4) for further guidance on publication obligations.

(3) In accordance with Clause 4(1)(b)(xvii), the following additional information must be proactively published:

Particulars of information	Minimum Updating	Minimum Form
Names, designations, contact details and other particulars of the Appellate Authorities; <sup>1</sup>	1 month	On a noticeboard in every office of every public authority & on the internet
Names, designations, contact details and other particulars of the Information Commission and Commissioners;	1 month	On a noticeboard in every office of every public authority & on the internet
A collated list of all of the applications received by the Government in the preceding month, including: <ul style="list-style-type: none"> <li>(i) The name of the Department which received the request</li> <li>(ii) The documents requested;</li> <li>(iii) Date of the request.<sup>2</sup></li> </ul>	1 month	On the internet and in every office/unit a list of the application received by them must be kept for inspection.
All contracts entered into by public authorities, detailing at a minimum for each contract: <ul style="list-style-type: none"> <li>(iv) The public works, goods acquired or rented, and the contracted service, including any sketches, scopes of service and/or terms of reference;</li> <li>(v) The amount;</li> <li>(vi) The name of the provider, contractor or individual to whom the contract has been granted, and</li> <li>(vii) The periods within which the contract must be completed.<sup>3</sup></li> </ul>	Within 2 weeks of signing the contract	On the internet. Also, where the contract relates to public works in relation to a particular area, a hard copy in a location easily accessible to the public of that area, like a panchayat house, public library or some other such location  Head of the public authority shall be personally responsible for ensuring that information relating to all contracts entered into in any month is available on the internet by the 1 <sup>st</sup> of the following month.

<sup>1</sup> This is important in cases of deemed refusal, where no notice is sent to the applicant advising of their appeal rights.

<sup>2</sup> See similar information published for Canada at [http://faculty.maxwell.syr.edu/asroberts/track/trackdata/CAIR\\_11\\_04.txt](http://faculty.maxwell.syr.edu/asroberts/track/trackdata/CAIR_11_04.txt) for example.

<sup>3</sup> A similar provision is contained in the Mexican transparency law.

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	These records (including copies of the contract) should be open for public audit and inspection at pre-declared hours every week. Any citizen should be able to inspect these records during these hours without any prior intimation or application and without payment of any fee.
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- (4) Names, designations and contacts details of all PIOs, Appellate Authorities and Information Commissions must be published at least annually in every telephone directory.
- (5) In accordance with Clause 4(1)(b)(xvii), every 3 months every public authority shall make an assessment of the kind of information sought by the public in the previous quarter, and where it is identified that certain information has been requested more than 10 times, said information shall be made available to the public suo moto by the government.
- (6) The Head of the public authority shall be personally responsible for ensuring that all officers and offices under his/her authority have complied with the publication provisions of the Act.

#### **4. Appointment of PIOs and APIOs**

- (1) Until such time as PIOs are appointed by a public authority, the head of that public authority shall be deemed to be the PIO for the purposes of this Act.
- (2) Every PIO shall be of a rank above that of *[insert a suitably senior rank to ensure that the PIO has sufficient authority]*.

#### **5. Appointment of APIOs**

- (1) Under section 5(2), Assistant PIOs must be appointed. One officer per sub-district level can be designated as an APIO to receive applications/appeals pertaining to all public authorities of the State Government. This APIO should be from among the gazetted class 1 or class 2 state government officers posted in the sub district level. It must be ensured that the APIO is an officer who is accessible and who the people would feel comfortable to approach for the purpose.
- (2) In a city/town or village where there are no designated PIOs or APIOs, all gazetted officers of the State Government posted there have the obligation to accept requests/appeals, along with the required fees and communicate these to the nearest PIO/APIO.

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(3) The official receipt for the fee would be issued by the receiving APIO.

### 6. Appointment of Appellate Authorities

(1) Until such time as the appellate authorities are appointed by a public authority, the Information Commission shall be empowered to directly hear appeals under this Act.

(2) Every appellate authority shall be of a rank above that of *[insert a suitably senior rank to ensure that the AA has sufficient authority]*.

### 7. Appointment of Information Commissioners

(1) In accordance with s.12(3) and 15(3), each Selection Committee shall table the list of candidates for the positions of Chief Information Commissioner and Information Commissioners in Parliament not later than 2 weeks before selection.

(2) The minutes of the meetings of each Selection Committee shall be published on the internet and tabled in Parliament within 2 weeks of the Selection Committee meeting.

### 8. Fees

(1) In accordance with ss. 6(1) and 7(1) and (5), the following fees are prescribed:

Description of Information	Price / Fees in Rupees
Application fee	None
Appeal fee	None
Where information is provided in the form of a copy of a paper document.	50 paise per page
Where information is provided in the form of a computer disk/video/tape/etc.	<ul style="list-style-type: none"><li>• Nil if the applicant provides his/her own disk/video/tape/etc.</li><li>• No more than the cost price of the disk/video/tape/etc.</li></ul>
Inspection of records	First half hour free and Rs 5 for every quarter hour thereafter, which amount is to be determined from the time the records were give to the applicant to inspect
Sample of material	Rs 50 per sample
Any information, which should have been provided to the applicant, either under any law or as a normal governance norm or which should have been publicly disseminated under section 4 and has not been done	No charge
Where the information is available in the form of a priced publication.	Price so fixed

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- (2) In accordance with s.7(5) of the Act, no fee shall be charged from the applicant if the applicant provides a copy of a BPL or antyodaya ration card, which contains the name of the applicant as one of the beneficiaries. The ration card shall be treated as sufficient proof of the applicant's economic status as living Below Poverty Line and no further questions shall be asked by the PIO on this issue.
- (3) Where the cost of collecting the fee exceeds the amount of the fee itself, the fee shall be waived.
- (4) The applicant may pay the requisite fees in cash or in the form of affixing non-judicial stamp of equivalent amount on the application form or postal order or cheque or a local Bank draft or money order in the name of *[insert]*.
- (5) The amount of fees received from the applicants by PIOs shall be deposited in the budget head No. "XXXXXXXXX"

### 9. Applications

- (1) Applications for information do not need to be made on a particular form, but may be made in the format at Annex A if preferred.
- (2) Whatever form an application is received in, an application shall include the following:
  - (i) An address to which notices and information can be sent;
  - (ii) The date the application is submitted;
  - (iii) Subject matter of the information requested, including if relevant, the period and/or geographic area to which the information relates;
  - (iv) Form of access preferred (optional).
- (3) *[If an application fee is imposed]* Where an electronic application is made, the applicant shall send a money order/cheque/demand draft to the PIO for the application fee or send a copy of a payment receipt, either by post, fax, PDF or in person.
- (4) *[If an application fee is imposed]* The period of 30 days referred to in 7(1) shall be counted from the day the application fee is received by the public authority.

### 10. Applications relating to life and liberty

- (1) Where an application is made which purports to affect a person's life and liberty as referred to under s.7(1), the applicant should note this clearly on the application and should include an explanation as to why the application should be expedited under this provision.
- (2) Where s.7(1) is invoked in respect of information relating to life and liberty, the PIO should examine the applicant's application liberally, and should, when processing the request, apply the interpretation of the Act which is most beneficial to the applicant.

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- (3) For the purposes of applying s.7(1), the PIO should at a minimum expedite an application where the information requested relates to a person's confinement, internment, arbitrary detention, imminent death at the hands of the State or another individual, torture or violation of due process rights.

### 11. Applications for Samples or Inspection

- (1) Where an application is made for taking a sample of inspecting a record or public works, the PIO shall intimate the date, time and venue when the applicant and/or his/her authorised representative(s) can obtain a sample of material or inspect information or works.
- (2) In accordance with s.7(1), the date for providing a sample and/or permitting inspection shall not exceed 30 days from the date of receipt of application, unless the applicant requests a later date for inspection.
- (3) The sample shall be provided to the applicant in the same manner and following the same procedure as followed when the sample is taken by a vigilance or an investigating agency. As far as possible, the sample shall be provided from the spot of applicant's choice indicated by the applicant on the spot.
- (4) The PIO shall ensure that all the records sought by the applicant are available for inspection, during the inspection.
- (5) At the time of inspection, at least one official should be present to allow inspection and to be able to reply to the queries of the applicant.
- (6) The applicant may bring along anyone to help him/her when taking a sample or making an inspection.
- (7) If the applicant desires to take copies of any parts of the records inspected by him or a sample of the work inspected by him, he/she may request such copies/samples without having to make an additional application [*or pay an additional application fee*] and the PIO shall provide such copies/samples within 5 days, subject to payment of any fees.

### 12. Receiving and Acknowledging Applications

- (1) In accordance with ss.5(4) and (5), any officer in any public authority shall be under an obligation to receive an application for information under the Act.
- (4) It will be the responsibility of any officer who receives an application for information under the Act to pass the application on to the relevant PIO or Assistant PIO as soon as possible and no later than 3 days from receiving the application, although the date of receipt for the purposes of the time limits in s.7 shall be the date the application was initially received by the officer.
- (5) The person who receives the application shall acknowledge the receipt of every application in writing. This receipt must include, at a minimum, the application

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reference number, the receiver's name, position, department/public body, the date the application was received and the date by which a response must be provided.

- (6) Where an application is received by post, the date of receipt is taken to be the date the application is logged into the mail register of the Department or public body, whether or not that date is the same date the application is received by the PIO.
- (7) Where an application is received electronically, the date of receipt is taken to be the date the application is sent to the Department or public body, whether or not that date is the same date the application is received by the PIO.

### 13. Third part representations

Where a third party needs to be consulted in accordance with s.11 of the Act, the third party notice shall include a copy of the response form in the format given in Annex 'B'.

### 14. Granting applications

- (1) After the PIO has compiled the requisite information and determined whether access shall be granted, he/she shall send an intimation to the applicant in the format given in Annex 'C' within a period of thirty days from the date of receipt of the application informing him/her in writing of the decision to grant the application. The notice shall include the amount of fees payable by him/her as per Section XX of these Rules, the method of payment and the proposed process for accessing the information.
- (2) The time from the date of the notice and the payment of any fee shall not be included in calculating the period of thirty days within which the information must be provided under s.7(1).
- (3) On receiving the payment or on receiving a copy of *chalan* showing payment of fee in treasury, the PIO shall immediately and no later than within 2 days, supply the information to the applicant in the form requested by the applicant.
- (4) Every record, including every page of every document, which is provided under this Act shall be stamped noting "This information was supplied under the Right to Information Act 2005".

### 15. Rejection notices

- (1) Where an application is rejected in accordance with s.7(8) or partially rejected in accordance with s.10(2), the PIO will send the applicant a notice in the format given in Annex 'D'.

### 16. Appeals

- (1) Appeals to the Appellate Authority or Information Commission do not need to be made on a particular form, but may be made in the format at Annex 'E' if preferred..



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- (2) Whatever form an appeal is received in, it should include the following:
  - (i) An address to which notices and information can be sent;
  - (ii) The date the appeal is submitted;
  - (iii) A copy of any order, if possible (optional)
  - (iv) Any other information which the complainant wishes to put before the appeal body.
- (3) Where an Appellate Authority finds in favour of the applicant, the applicant may still apply to the Information Commission requesting the imposition of a penalty under s.20 of the Act.
- (4) In accordance with s.27(2)(e), it is prescribed that the Central and State Information Commissions will themselves formulate the procedures to be adopted in deciding appeals under s.19(10).
- (5) In accordance with the powers set out in s.19(8)(a), the Central and State Information Commissions have the power to release information on the basis of s.8(2).
- (6) (a) In accordance with s.27(2)(f), it is prescribed that where a public authority fails to comply with a notice of an Information Commission, the Information Commission may certify in writing to the High Court or Supreme Court that the public authority has failed to comply with that notice.
  - (b) Where a failure to comply is certified under subsection 3(a), the court may inquire into the matter and, after hearing any witness who may be produced against or on behalf of the public authority, and after hearing any statement that may be offered in defence, deal with the authority as if it had committed a contempt of court.

### **17. Monitoring Applications and Appeals**

- (1) A register of applications received shall be maintained by each PIO and Assistant PIO. The register may be electronic or in hard copy. At a minimum, the register will note the following information:
  - (i) Application reference number;
  - (ii) Name of applicant;
  - (iii) Date of application;
  - (iv) Summary of applicant's request;
  - (v) Date response provided to applicant;
  - (vi) Where information was provided, summary of information provided
  - (vii) Where application was rejected, specific clause relied upon and brief explanation of reasons;
  - (viii) Whether appeal filed and outcome;
  - (ix) Any additional remarks

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- (2) At the end of every month, every PIO and Assistant PIO will provide a monthly report containing the information collected under sub-section (1) above to the Head of the public authority or his/her delegate.
- (3) A register of appeals received shall be maintained by each Appellate Authority and Information Commission. At a minimum, the register will note the following information:
  - (i) Application reference number;
  - (ii) Name of applicant;
  - (iii) Date of appeal;
  - (iv) Date response provided to applicant;
  - (v) Outcome of the appeal, including the provision(s) of the law being disputed, the interpretation of the provision(s) relied upon and a summary of the order passed;
  - (vi) Any additional remarks
- (4) At the end of every month, each Appellate Authority will provide a monthly report containing the information collected under sub-section (3) above to the Head of the Department or public body or his/her delegate.
- (5) Within 14 days from the end of each month, the Head of the Department or public body or his/her delegate will collate all of the information received in accordance with sub-sections (2) and (4) above and publish this information on the internet.
- (6) Within 14 days from the end of every month, each Information Commission will publish the information collected under sub-section (3) on the internet.

### **18. Records Management**

- (1) In accordance with s.4(1) of the Act, every public authority shall ensure that their records are computerized within a period of 3 years from the enactment of this Act.
- (2) Every authority shall, immediately upon the enactment of this Act, make a time-bound plan for achieving implementing Rule 14(1) above and said plan shall be made public. Every six months, the public authority shall publish a progress statement in respect of the plan.