

Draft Right to Information Bill 200__

An Act to establish a mechanism to secure access to information under the control of Public Authorities and certain Private Bodies in order to ensure transparency, accountability and good governance.

PREAMBLE

- WHEREAS the right to information is a fundamental human right which will contribute to strengthening democracy, improving governance, increasing public participation, promoting transparency and accountability and reducing corruption;
- AND WHEREAS citizens in a democracy should be empowered to understand and exercise their right to information;
- AND WHEREAS without access to information it is not possible to prevent corruption;
- AND WHEREAS access to information is necessary to ensure transparency and accountability in every body that purports to undertake activities that have a bearing on the well being of the public;
- NOW THEREFORE it is expedient to harmonise the laws restricting access to information and the need for accountability and transparency by allowing access to information under the control of Public Authorities and Private Bodies;
- NOW THEREFORE this law establishes voluntary and mandatory mechanisms or procedures to give effect to right to information in a manner which enables persons to obtain access to records of Public Authorities and Private Bodies in a swift, effective, inexpensive and reasonable manner.

BE IT THEREFORE ENACTED by the Parliament of the People's Republic of Bangladesh, as follows: -

CHAPTER I - PRELIMINARIES

1. Short title, extent and commencement:

- (1) This Act may be called the Right to Information Act, 200__.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force at once.

2. Definitions:

In this Act, unless the context otherwise requires,

(1) "Access" means the right to access information and includes inspection of works, documents and offices, taking notes, and extracts, and obtaining certified copies of documents or records, *taking certified samples of materials, obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or any other device* of any Public Authority or Private Body.

(2) "dissemination" means making known or communicated to the public through various means depending on the local language and the most effective method of communication in that area, including through the use of notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any Public Authority or Private Body.

(3) "Information" means any material *be it in any form, including any advice, circular, contracts, data, documents, e-mails, file noting, log books, materials, models, memos, opinions, orders, papers, press releases, records, reports, samples, works held in any electronic form*, records of internal deliberations of officers and employees, any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, video tape, machine readable record, and any other documentary material regardless of physical form or characteristics, and any copy thereof and any information which can be accessed by a Public Authority or Private Body under any other law for the time being in force.

(4) "Information Commission" means the body established under section 12 of this Act.

(5) "Information Officer" means the Public Relation Officer or any other officer or employee of any Public Authority or Private Body who is designated as the officer responsible for discharging functions and responsibilities under this Act. In the absence of any Public Relation Officer or designated officer or employee, the head of the relevant Public Authority or Private Body of any section, department, directorate, wing, division and administrative unit thereof shall be deemed to be the Information Officer.

(6) "Private Body" means any body, excluding a Public Authority, that carries on any trade, business or profession, but only in that capacity, and:

(a) is owned, controlled or substantially financed directly or indirectly by a Public Authority; or

(b) undertakes a public function on behalf of a Public Authority; or

(c) undertakes activities that affect the wellbeing of the public or any section of the general public.

(7) "Public Authority" means any authority or body or institution established or constituted:

(i) by or under the Constitution;

(ii) by any other law made by Parliament; or

(iii) by notification issued or order made by the Government or any other body having the authority to issue such notification.

And includes -

(a) any institution, authority or body of the three arms of the government – the executive, legislature and judiciary; and

(b) any institution, authority or body where the information held is necessary for the exercise or protection of a human right.

(8) "third party" means a person other than the person making a request for information and includes Private Bodies.

CHAPTER II – RIGHT TO INFORMATION

3. Right to Information:

(1) Subject to provisions of this Act, every person has a right to access information *held by or under the control of any Public Authority or Private Body*.

(2) Every Public Authority or Private Body shall maintain all its records *in a manner and form which facilitates the right to access information under this Act* and to make available to any person requesting information from it and shall not withhold any information or limit its availability.

(3) The Information Commission shall develop guidelines on proper record keeping and management which must be followed by all Public Authorities and Private Bodies subject to the Act

4. Publication of Information by a Public Authority or Private Body:

(1) Every Public Authority and Private Body shall:

(a) publish *not more than six months after the Act comes into force, and thereafter updated at least once every six months*, a publication(s) containing:

- i) the particulars of its organization, functions and duties;
- ii) the powers and responsibilities of its officers and employees;
- iii) a description of its decision making process and responsibilities, including channels of supervision and accountability;
- iv) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- v) a statement of the classes and categories of documents and records held by it or under its control;
- vi) the 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;
- vii) a 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 advice,

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;

viii) a statement about the conditions upon which people can acquire from it any license, permit, grant, allotment, consent, approval or other benefits of any nature or upon which transactions or contracts of any category can be entered with it;

ix) a directory of its officers and employees;

x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

xi) in the case of Public Authorities, the budget allocated to each of its agencies, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

xii) in the case of Private Bodies, their balance sheets and audit reports;

xiii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

xiv) particulars of recipients of concessions, permits or authorisations granted by it;

xv) a statement about the facilities provided for access to information, including the working hours of a library or reading room, if maintained for public use;

xvi) the name, designation and location of the *Information Officer* to whom requests for information may be addressed; and

xvii) such other information as may be prescribed by the Information Commission.

(b) provide reasons for administrative or quasi judicial decisions to affected people.

(c) publish all relevant facts while formulating important policy decisions and announcing decisions that affect the public.

(d) publish information on any new project, policy, scheme, programme or proposal to enact a law that may be undertaken by it that may affect people generally or sections of people particularly and which the people concerned must know for the sake of natural justice and promotion of democratic principles.

(e) publish information relating to contracts entered into by them, including the objectives and terms of the contract, the expected outcomes, benefits to accrue to the public, goods acquired or rented, the amount of money involved, the name of the contractor(s) or individuals to whom the contract has been awarded and the periods within which the contract is to be completed.

(f) publish details in respect of the information, held by or under its control that is reduced in an electronic form.

(2) For the purposes of sub-section (1), all information shall be disseminated widely and in such a form and manner which is easily accessible to the public.

(3) For the purposes of sub-section (1), all information shall be available free of cost or at such cost of the medium or the print cost price as may be prescribed.

(4) For the purposes of sub-section (1) the Information Officer of the Public Authority or Private Body shall be the custodian of the information.

(5) It shall be a constant endeavour of every Public Authority or Private Body to provide as much information referred to in sub-section (1) to the public at regular intervals through various means of communications so that the public have minimum resort to the use of this Act to obtain information.

(6) For the purposes of subsection (1), the Information Commission may make rules to specify shorter intervals in which the Public Authority or Private Body must update the information, taking into account how often the information changes and the form of information, to ensure it is as current as possible.

5. Information Officers

(1) Every Public Authority and Private Body shall appoint an Information Officer.

(a) The Public Authority or Private Body may designate as many Information Officers as may be necessary for carrying out the obligations stated in this Act.

(2) Information Officers will be the contact within the Public Authority or Private Body for receiving requests for information, for assisting individuals seeking to obtain information, for processing requests for information, for providing information to applicants, for receiving individual complaints regarding the performance of the Public Authority or Private Body relating to information disclosure and for monitoring implementation and collecting statistics for reporting purposes.

(3) The Information Officer shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Information Officer may seek the assistance of any other officer or employee of any Public Authority or Private Body as he or she considers necessary for the proper discharge of his or her duties.

(5) Any officer or employee of any Public Authority or Private Body, whose assistance has been sought under sub-section (2), shall render all assistance to the Information Officer seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as an Information Officer.

6. Procedure for Accessing Information:

(1) A person desiring to access information from a Public Authority or Private Body under this Act shall make a request in writing or in any other form including electronic means in English, Bangla or the local language of the area where the request is being made, to *the Information Officer* specifying the particulars of the information, document or record and the mode of access, i.e. inspection, copying or taking note of, sought.

Provided that where such request cannot be made in writing, the Information Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing, and shall provide the applicant with a copy of such a written request.

(2) A person requesting access to information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him or her.

(3) The Information Officer receiving a request for access to information is required to provide a written acknowledgement of receipt of the request, including the date it was received, the name and contact details of the Information Officer.

(4) Where an application is made to a Public Authority or Private Body requesting information which is held by another Public Authority or Private Body; or the subject matter of which is more closely connected with the functions of another Public Authority or Private Body:

(a) The Public Authority or Private Body to which such application is made shall transfer the application or such part of it as may be appropriate to that other Public Authority or Private Body and inform the applicant immediately about such transfer.

(b) The Public Authority or Private Body to which the application was made shall immediately inform the applicant by written notice that the transfer has been made. The written notice shall include all relevant details, including on what date the application was transferred, to whom it was transferred and the contact details for the Information Officer at the Public Authority or Private Body to which it was transferred.

(c) The transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

7. Procedure for Providing Information

(1) Subject to section 9, the Information Officer, on receipt of a request under sub-section (1) of section 6 shall, as expeditiously as possible, and in any event within not more than 30 days of the receipt of the request, make their decision and either give access to the information on receipt of such fees as may be prescribed, or reject the request for any of the reasons specified in section 9. The Information Officer shall give written notice of their decision in the form described in sub-sections (2) or (3) of this section within not more than 30 days of receipt of the request.

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) Where a request has been granted under sub-section (1), the Information Officer shall

(a) give written notice to the person making the request, including in that notice

(i) that access has been granted;

(ii) the details of fees due for providing access together with the calculations made to arrive at the amount and requesting the applicant to deposit the fees;

(iii) the form of access to be provided, including how the applicant can access the information once the fees are paid; and

(iv) the person's rights with respect to review of the decision regarding the amount of fee charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any forms that might be required.

(3) Where a request has been rejected under sub-section (1), the Information Officer shall

(a) give written notice to the person making the request, including in that notice -

- (i) that access to the information has been denied;
- (ii) the reasons for such rejection, including the section of the Act relied upon to reject the application and any findings on any material question of fact, referring to the material on which those findings were based;
- (iii) the name and designation of the person giving the decision;
- (iv) the period within which an appeal against such rejection may be preferred; and
- (v) the person's rights with respect to review of the decision regarding non-disclosure of the information or the form of access provided, including the particulars of the appellate authority, time limit, process and any forms that might be required;

(4) If the Information Officer fails to give a decision on the request for information within the period specified under sub-section (1), the Information Officer is deemed to have refused the request.

(5) Where access to the information or a part thereof is required to be provided under this Act and the person to whom access is to be provided is illiterate or disabled, the Information Officer shall provide assistance to enable access to the information as may be appropriate.

(6) Where access to information is to be provided under sub-section (1), the applicant shall pay such fee for accessing the information as may be prescribed.

(a) the fee prescribed shall be reasonable, and in no case exceed the actual cost of providing the information such as making photocopies or taking print outs;

(b) the fee shall be set via regulations at a maximum limit taking into account the principles that fees should not be set so high that they deter applications and that fees should cover only the cost of reproducing the requested information, not the cost of searching for or compiling the requested information;

(c) no fee shall be payable where the cost of paying or collecting the fee is greater than the fee itself;

(d) no fee shall be payable by any person who is indigent as may be determined by the appropriate authority;

(e) no fee shall be payable where access to the information is in the public interest, or where the objectives of the Act would otherwise be undermined.

(7) Notwithstanding anything contained in sub-section (6), the person making the request for the information shall be given access to the information free of charge where a Public Authority fails to comply with the time limits specified in sub-section (1).

(8) Information shall be provided in the form in which it is sought unless it would disproportionately divert the resources of the Public Authority or would be detrimental to the safety or preservation of the record in question.

CHAPTER III - CIRCUMSTANCES IN WHICH LIMITED INFORMATION MAY BE WITHHELD

8. Public Interest Disclosure

The Information Officer shall give access to information that could otherwise be exempted from disclosure under section 9 where giving access to such information is in the public interest. In determining what is in the public interest, the Information Officer must consider all the relevant circumstances of the individual case, having regard to both any benefit and any damage that may arise from giving access to the information. This consideration includes, but is not limited to:

- (a) abuse of authority or neglect in the performance of official duty;
- (b) injustice to an individual;
- (c) danger to the health or safety of an individual or of the public; or
- (d) illegitimate use of public funds.

9. Exemptions from Disclosure of Information:

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any person,

- (a) information, the disclosure of which will cause serious harm to the sovereignty and integrity of Bangladesh, the security, strategic, scientific or economic interests of the state, or relations with a foreign state or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

- (c) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would cause unfair or serious detriment to the legitimate commercial or competitive interests of a Public Authority or a third party;
- (d) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (e) information, the disclosure of which would substantially prejudice the investigation or apprehension or prosecution of offenders by a law enforcement authority;
- (f) papers submitted to cabinet, where disclosure would seriously frustrate the success of a policy, by premature disclosure of that policy;

Provided that all papers submitted to Cabinet will be automatically disclosed after a decision has been taken unless the information is covered by another exemption provided under this section.

- (g) information which relates to personal information, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual.

Provided that the information which cannot be denied to the Parliament shall not be denied to any person.

Provided such information can not be withheld where:

- (i) the individual concerned has consented to the disclosure of the information;
- (ii) the person making the request is the guardian of the individual, or the next of kin or the executor of the will of a deceased individual;
- (iii) the individual has been deceased for more than 20 years; or
- (iv) the individual is or was an official of a public body and the information relates to any of his or her functions as a public official or relates to an allegation of corruption or other wrongdoing.

Provided such information can not be withheld where the Information Officer is satisfied that the larger public interest justifies the disclosure of such information.

(2) Subject to the provisions of clauses (a) and (f) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened ten years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of ten years has to be computed, the decision of the Government shall be final, subject to the usual appeals provided for in this Act.

10. Rejection of Information

(1) Without prejudice to the provisions of section 9, an Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the Government;

(2) Subsection (1) of section 9 does not relieve the Public Authority of complying with its obligations under section 11 of this Act.

11. Partial Access to Information:

(1) Where information is exempted from disclosure under section 9 of this Act, then, notwithstanding anything contained in this Act, access may be provided to that part of the information which does not contain exempt information and which can reasonably be severed from any part that does contain exempt information.

(2) Where access is granted to a part of the information under sub-section (1), the Information Officer shall give written notice to the applicant including:

- (a) that only part of the information requested, after severance of the information which is exempt from disclosure, can be accessed; and
- (b) all other information as is required in a written notice for refusing access to information as stated under sub-section 7(2) or sub-section 7(3) of this Act.

CHAPTER IV – THE INFORMATION COMMISSION

12. Information Commission:

(1) The Government shall, by notification in the Official Gazette, constitute a body to be known as the Information Commission to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Information Commission shall consist of—

- (a) the Chief Information Commissioner; and
- (b) such number of Information Commissioners, not exceeding four, as may be deemed necessary.

(3) An appointment committee shall nominate a candidate or candidates to the Information Commission from persons qualified under the provisions of this Act, and Parliament by a special majority vote, shall confirm the said nomination. In deciding on candidates for the Information Commission, the appointment committee shall undertake consultation with the public to the extent possible, including by:

- (a) calling for nominations for candidates from the public; and

(b) publishing a list of potential candidates at least one month prior to deciding on candidates, calling for public submissions. Such a list shall include a detailed explanation of the reasons for the candidate being nominated, in accordance with the criteria set out in this Act.

(4) The persons appointed to the Information Commission shall –

(a) be citizens of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance;

(b) be publicly regarded as a person who can make impartial judgments;

(c) have a demonstrated commitment to good governance, transparency and accountability;

(d) have sufficient knowledge of the workings of Government;

(e) not have had any criminal conviction and not have been a bankrupt;

(f) be otherwise competent and capable of performing the duties of his or her office;

(g) not be the President, Vice President, a Minister or Deputy Minister, a serving public officer or a Member of Parliament; and

(h) not hold any other public office unless otherwise provided for in this Act.

(5) The appointment committee referred to in sub-section (3) of this Section shall consist of—

(a) a Judge of the Appellate Division, nominated by the Chief Justice, who shall be the Chairperson of the Committee;

(b) the Chairman, Public Service Commission; and

(c) the Chairman, University Grant Commission.

The appointment committee shall strive to achieve a mix of individuals with diverse professional experiences in the composition of the Information Commission as a whole.

(6) The general superintendence, direction and management of the affairs of the Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Information Commission autonomously without being subjected to directions by any other authority.

(7) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or hold any other office of profit or connection with any political party or carrying on any business or pursuing any profession.

(8) The headquarters of the Information Commission shall be at Dhaka and the Information Commission may, if the Information Commission's budget permits, establish offices at other places in Bangladesh.

13. Terms of office of Chief Information Commissioner and Information Commissioners:

(1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he or she enters upon his office and shall not be eligible for reappointment:

Provided that no Chief Information Commissioner shall hold office as such after he or she has attained the age of sixty-seven years.

(2) Every Information Commissioner shall hold office for a term of five years from the date on which he or she enters upon his office or till he or she attains the age of sixty-seven years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where an Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

(3) The Chief Information Commissioner or an Information Commissioner shall before he or she enters upon his office make and subscribe before the Chief Justice an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office.

(5) The Chief Information Commissioner or an Information Commissioner may be removed from office in the manner specified in Section 16.

14. Salaries and Allowances:

(1) The salaries and allowances payable to and other terms and conditions of service of —

(a) the Chief Information Commissioner shall be the same as that of a Judge of the Appellate Division;

(b) an Information Commissioner shall be the same as that of a Judge of the High Court Division of the Supreme Court of Bangladesh:

(2) If the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension,

in respect of any previous service under the Government of Bangladesh, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity.

(3) If the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Act or a Government company owned or controlled by the Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits.

(4) The salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

15. Employees of Information Commission:

The Information Commission will employ such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

16. Removal of Information Commissioners:

(1) Subject to sub-sections (3) and (4), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President in the manner applicable in respect of a Judge of the Supreme Court as provided in Article 96 of the Constitution.

(2) The President may suspend from office, and if it is deemed necessary also prohibit from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or an Information Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

(4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he or she shall, for the purposes of sub-section (1), be deemed to be guilty of gross misconduct.

CHAPTER V – INQUIRY, REVIEW AND APPEAL

17. Inquiry:

(1) Subject to the provisions of this Act, it shall be the duty of the Information Commission to receive and inquire into a complaint from any person,—

(a) who has been unable to submit a request to a Information Officer either by reason that no such officer has been appointed under this Act, or because the Public Authority has refused to accept his or her application for information;

(b) who wishes the Information Commission to start penalty proceedings under section 22 of this Act; or

(c) who wishes to seek compensation for a loss suffered due to the acts or omissions of the Information Officer, Public Authority or Private Body in contravention of this Act.

(2) Where the Information Commission is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Information Commission shall have the power to initiate of its own accord inquiries, as appropriate, against any Public Authority, Private Body or Information Officer; the Information Commission's powers of inquiry will extend to patterns of non-compliance with this Act by any Public Authority, Private Body or Information Officer or to any of the circumstances in sub-section (1).

(4) On completion of such an inquiry, the Information Commission shall table its report with Parliament accordingly and Parliament or a relevant Parliamentary Committee shall consider such a report.

18. Internal Review:

(1) Any person who, does not receive a decision within the time specified in sub-section (1) of section 7, or is aggrieved by a decision of the Information Officer or any matter relating to a request for access to information made under section 6, may within thirty days from the expiry of such period under section 7 or from the receipt of such a

decision appeal to the Head of the Public Authority or Private Body for review of that decision.

- (a) The Head of the Public Authority or Private Body may delegate the power to review the decisions of the Information Officer to another designated officer, but not an Information Officer. Such officer or Head of the Public Authority, as the case may be, shall be referred to as the Appellate Authority.
- (b) The Appellate Authority may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- (c) The Appellate Authority shall, as expeditiously as possible, and in any event within not more than 30 days of the receipt of the appeal, review the Information Officer's decision under section 7, and either give access to the information on receipt of such fees as may be prescribed, may amend the fee payable for access to the information, or reject the request for any of the reasons specified in section 9 of this Act.
- (d) The Appellate Authority shall give written notice of the appeal decision that shall include the same information as the original decision of an Information Officer would under section 7(2) or 7(3) of this Act as appropriate.

Provided that where the information sought for concerns the life or liberty of a person, the Appellate Authority shall provide the reviewed decision within forty-eight hours of the receipt of the request.

19. Appeal

- (1) An appeal against the review decision under section 18 shall lie with the Information Commission within ninety days from the date on which the decision of the internal review should have been made or was actually received.
- (2) The Information Commission may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- (3) If the decision of the Information Officer, against which an appeal is preferred relates to information of a third party, the Information Commission shall give a reasonable opportunity of being heard to that third party.
- (4) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Information Officer who denied the request.
- (5) The appeal shall be decided within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof for reasons to be recorded in writing.

(6) The Information Commission shall give written notice of its decision to the complainant and the Public Authority or Private Body. The notice of the decision shall include:

- (a) the reasons for such decision, including the section of the Acts relied upon and any findings on any material question of fact, referring to the material on which those findings were based; and
- (b) the person's rights with respect to appeal of the decision to the Supreme Court.

(7) In its decision, the Information Commission has the power to—

- (a) require the Public Authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including —
 - (i) by providing access to information, if so requested, in a particular form;
 - (ii) by appointing an Information Officer;
 - (iii) by publishing certain information or categories of information;
 - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
 - (v) by enhancing the provision of training on this Act for its officials;
 - (vi) by providing it with an annual report in compliance with subsection 1 of section 4; or
 - (vii) require the Public Authority to compensate the complainant for any loss or other detriment suffered;
- (b) impose any of the penalties provided under this Act;
- (c) reject the application.

(8) The decision of the Information Commission can be appealed to the Supreme Court.

(9) The decision of the Information Commission shall be binding except to the extent that the decision is appealed to the Supreme Court.

(10) The Information Commission shall decide the appeal in accordance with such procedure as may be prescribed however such procedures must be grounded in the principles of due process and fair administrative justice.

20. Information Commission's Investigation Powers

The Information Commission shall, while inquiring into any matter or hearing any appeal under this Chapter, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

Notwithstanding anything inconsistent contained in any other Act the Information Commission may, while inquiring into any matter or hearing any appeal under this Chapter, examine any record to which this Act applies which is under the control of the Public Authority, and no such record may be withheld from it on any grounds.

21. Rules to carry out this Act

The Information Commission may by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Provided that, without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (6) of section 7;
- (b) the cost of the medium of print cost price of the materials to be disseminated under sub-section (3) of section 4;
- (c) the salaries and allowances payable to and the terms and conditions of employment of officers and other employees under section 14;
- (d) the procedure to be adopted by the Information Commission in deciding appeals under sub-section 19(10);
- (e) the guidelines on proper record keeping and management which must be followed by all Public Authorities and Private Bodies under sub-section 3(3);
or
- (f) any other matter which is required to be, or may be, prescribed.

Provided that all draft rules shall be published by the Information Commission in advance, and people's opinion on the content of the rules sought, in a reasonable time frame before the rules are finalised.

CHAPTER VI – PENALTIES AND PROTECTIONS

22. Penalty:

(1) Where any official has, without any reasonable cause, failed to comply with the provisions in this Act, the Information Commission and/or the Courts shall have the power to impose a penalty.

(2) Where it is found in an appeal or an inquiry that any official has:

- (a) Mala fide denied or refused to accept a request for information;
- (b) Knowingly given incorrect or misleading information;
- (c) Knowingly given wrong or incomplete information;
- (d) Destroyed information subject to a request; or
- (e) Obstructed the activities in relation to any application or of an Information Officer, any appellate authority or the courts;

then the officer has committed an offence and the Information Commission and/or the Courts shall impose a penalty. The Information Commission may then file a complaint with the Magistrates Court, or the Supreme Court may then refer the matter to the Magistrates Court, for consideration of whether a term of up to two years imprisonment is appropriate.

(3) Where the Information Commission and/or the Courts, is of the opinion that the Public Authority or Private Body is itself responsible for not complying with this Act, the Information Commission and/or the courts shall impose a penalty on the Public Authority or Private Body in addition to, or instead of, the individual officer(s) concerned. Such a penalty could be imposed on the Public Authority or Private Body for a number of reasons, including:

- (a) failing to publish information in pursuance of section 4;
- (b) failing to appoint an Information Officer under section 5;
- (c) consistently failing to process applications within the time frame stipulated in sub-section 7(1); or
- (d) consistently misapplying section 9 which allows for information to be withheld.

(4) The applicable penalty will be:

- (a) for the purposes of sub-sections (1) and (2) of this section, not less than taka two hundred and fifty per day for each day/s delay in providing access to the information (where a delay has occurred) and shall be no more than taka twenty five thousand in total.
- (b) for the purposes of sub-section (3) of this section, not than taka ten thousand per day for each day/s delay in providing access to the information (where a delay has occurred) and shall be no more than taka one lakh in total.

The amount of such penalty must be reviewed and, if appropriate, increased by regulation at least once every five years.

(5) An officer whose assistance has been sought by the Information Officer for the performance of his/her duties under this Act shall be liable for penalty as prescribed in

sub-sections (1) and (2), jointly with the Information Officer or severally, as may be decided by the Information Commission or the Courts.

(6) The Information Officer, other officer, Public Authority or Private Body shall be given a reasonable opportunity of being heard before any penalty is imposed on him/her.

(7) The burden of proving that he or she, the Public Authority or Private Body acted reasonably and diligently shall be on the Information Officer, other officer, Public Authority or Private Body as the case may be.

(8) Where the Information Commission or the Courts, at the time of deciding on an inquiry or an appeal is of the opinion that an Information Officer or other officer has persistently contravened sub-sections (1) or (2) of this section, it shall recommend disciplinary action against the Information Officer under the service rules applicable to him.

(9) Where the Information Officer, other officer, Public Authority or Private Body fails to comply with a notice of the Information Commission, the Commission may certify in writing to a Court that the official or authority has failed to comply with that notice, following which the court may inquire into the matter and deal with the officer or authority as if they had committed a contempt of Court.

23. Application of the Limitation Act 1908 (Act IX of 1908):

Subject to the provisions of this Act, the provisions of the Limitation Act, 1908 (Act IX of 1908) shall, as far as may be applicable, apply to an appeal filed under this Act.

24. Recovery of penalty:

Any penalty or compensation payable under this Act, if not paid, shall be recoverable *from the salary of the public official or* as arrears of land revenue under the Public Demands Recovery Act, 1913.

25. Indemnity:

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

26. Primacy of this Act:

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or any instrument having effect by virtue of any law other than this Act.

27. Appeal to Supreme Court:

Decisions of the Information Commission can be appealed to the Supreme Court.

CHAPTER VII – MONITORING AND PROMOTION OF THE ACT

28. Annual Report by the Commission:

(1) The Information Commission shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the Government and make this report available for public perusal through appropriate means, including through its website, if such a website exists.

(2) Each Ministry or Department shall, in relation to the Public Authorities within their jurisdiction, collect and provide such information to the Information Commission, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state in respect of the year to which the report relates,—

(a) the number of requests made to each Public Authority;

(b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;

(c) the number of appeals referred to the Information Commission for review, the nature of the appeals and the outcome of the appeals;

(d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;

(e) the amount of charges collected by each Public Authority under this Act;

(f) any facts which indicate an effort by the Public Authorities to administer and implement the spirit and intention of this Act; and

(g) recommendations for reform, including recommendations in respect of the particular Public Authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information;

(4) The report of the Information Commission referred to in sub-section (1) shall be tabled before both Houses of Parliament within three months of the end of the financial year. The relevant Minister shall refer the report to the relevant Parliamentary Standing Committee for consideration and comment.

(5) If it appears to the Information Commission that the practice of a Public Authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the Public Authority a recommendation

specifying the steps which ought in its opinion to be taken for promoting such conformity.

29. Education and training:

(1) The Information Commission is responsible for the implementation of this Act, accordingly, it shall:

- (a) develop and conduct educational programmes to advance the understanding of the public, in particular of disadvantaged communities, of this Act and of how to exercise the rights contemplated in this Act;
- (b) encourage Public Authorities and Private Bodies to participate in the development and conduct of programmes referred to in paragraph (a) and to undertake such programmes themselves; and
- (c) promote timely and effective dissemination of accurate information by public bodies about their activities.

(2) The Information Commission may:

- (a) make recommendations for--
 - (i) the development, improvement, modernisation, reform or amendment of this Act or other legislation or common law having a bearing on access to information held by Public Authorities and Private Bodies, respectively; and
 - (ii) procedures by which Public Authorities and Private Bodies make information electronically available;
- (b) monitor the implementation of this Act;
- (c) if reasonably possible, on request, assist any person wishing to exercise a right under this Act;
- (d) recommend to a Public Authority or Private Body that the body make such changes in the manner in which it administers this Act as the Information Commission considers advisable;
- (e) train information officers of Public Authorities or Private Bodies;
- (f) consult with and receive reports from Public Authorities and Private Bodies on the problems encountered in complying with this Act;

(3) The Information Commission must, within 18 months of the commencement of this Act, compile in each official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in this Act. The guide must, include a description of--

- (a) the objects of this Act;
- (b) the postal and street address, phone and fax number and, if available, electronic mail address of the information officer of every Public Authority and Private Body;
- (c) the manner and form of a request for access to a record of a Public Authority or a Private Body;
- (e) the assistance available from, and the duties of, the Information Officer of a Public Authority or Private Body in terms of this Act;
- (f) the assistance available from the Information Commission in terms of this Act;
- (g) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act, including the manner of lodging--
 - (i) an internal review; and
 - (ii) an application with the Information Commission and the Supreme Court for an appeal against a decision of an Information Officer;
- (i) the provisions providing for the voluntary disclosure of categories of records;
- (j) the notices regarding fees to be paid in relation to requests for access; and
- (k) the rules made under this Act.

The Information Commission must, if necessary, update and disseminate the guide at intervals of not more than two years.

30. Parliamentary review of the Act:

This Act shall be reviewed by a committee of both Houses of Parliament appointed for that purpose. The first such review shall be conducted no later than two years after the commencement of this Act. Thereafter such reviews shall be conducted no later than five years after the preceding review.

31. Protection for whistleblowers:

(1) No one may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.

(2) For purposes of sub-section (1), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a Public Authority or Private Body.

32. Provision on Duties of Government:

The government shall respect and protect the right to access information as defined in this Act and support efforts made in good faith by civil society to achieve the objects of this Act.