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An Act to promote maximum disclosure of information in the public interest, to guarantee the right of everyone to access information, and to provide for effective mechanisms to secure that right.

Be it enacted by [insert relevant body, such as the Parliament] as follows:

PART I: DEFINITIONS AND PURPOSE

Definitions

1. In this Act, unless the context otherwise requires: –
 - (a) *“access” to information means the inspection of works and information, taking notes and extracts and obtaining certified copies of information, or taking samples of material.*
 - (b) *“commissioner” is the office of the Information Commissioner, established by Part V, or the holder of that office, as the context may require;*
 - (c) *“information” means any material in any form, including records, documents, file notings, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data, material held in any electronic form and any information relating to a private body which can be accessed by a public authority under any law.*
 - (d) *“information officer” is an individual with specific responsibilities under this Act, required to be appointed by every public body pursuant to section 16(1);*
 - (e) *“official” means any person employed by the relevant body, whether permanently or temporarily and whether part-time or full-time;*
 - (f) *“minister” means the Cabinet minister responsible for the administration of justice;*
 - (g) *“private body” has the meaning given by sub-section 6(3);*
 - (h) *“public body” has the meaning given by sub-section 6(1) and (2);*
 - (i) *“publish” means make available in a form generally accessible to members of the public and includes print, broadcast and electronic forms of dissemination;*
 - (j) *“personal information” means information which relates to a living individual who can be identified from that information; and*

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“record” includes any recorded information, regardless of its form, source, date of creation, or official status, whether or not it was created by the body that holds it and whether or not it is classified

Short Title and Commencement

1. (1) This Act may be cited as the Right to Access Information Act 2006.
- (2) This Act shall come into effect on a date proclaimed by the President of the Republic of Sierra Leone provided that it shall automatically come into effect six months after its passage into law if no proclamation is forthcoming

Purpose

2. WHEREAS there exist a need to:
 - (i) foster a culture of transparency and accountability in public authorities by giving effect to the right of freedom of information and thereby actively promote a society in which the people of Sierra Leone have effective access to information to enable them to more fully exercise and protect all their rights;
 - (ii) give effect to the fundamental Right to Information, which will contribute to strengthening democracy, improving governance, increasing public participation, promoting transparency and accountability and reducing corruption
 - (iii) Establish voluntary and mandatory mechanisms or procedures to give effect to right to information in a manner which enables persons to obtain access to records of public authorities, and private bodies where the information is needed for the exercise and/or protection of a right, in a swift, effective, inexpensive and reasonable manner.
 - (iv) Promote transparency, accountability and effective governance of all public authorities and private bodies

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by including but not limited to empowering and educating all persons to:

- (a) Understand their rights in terms of this Act in order to exercise their rights in relation to public authorities and private bodies.
- (b) Understand the functions and operation of public authorities; and
- (c) Effectively participating in decision making by public authorities that affects their rights

PART II: THE RIGHT TO ACCESS INFORMATION HELD BY PUBLIC AND PRIVATE BODIES

Freedom of Information

3. “Everyone shall have the right to access information from public authorities and the right to access information held by private bodies where the information is necessary for the exercise or protection of a right, subject only to the provisions of this Act..

General Right of Access

4. Any person making a request for information to a public body shall be entitled, subject only to the provisions of Parts II and IV of this Act: –

- (a) to be informed whether or not the public body holds the information or can access or derive the information from other sources; and
- (b) if the information is held or under the control of the public body, to have access to that information

- (2) Any person making a request for information to a private body which holds information necessary for the exercise or protection of any right shall, subject only to the relevant provisions of Parts II and IV of this Act, be entitled to have that information communicated to him or her.

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Legislation Prohibiting or Restricting Disclosure

5. (1) This Act applies to the exclusion of any provision of other legislation that prohibits or restricts the disclosure of a record by a public or private body.
- (2) Nothing in this Act limits or otherwise restricts the disclosure of information pursuant to any other legislation, policy or practice.

Public and Private Bodies

6. (1) For purposes of this Act, a public body includes any body: –
 - (a) established by or under the Constitution;
 - (b) established by statute;
 - (c) which forms part of any level or branch of Government;
 - (d) owned, controlled or substantially financed by funds provided by Government or the State; or
 - (e) carrying out a statutory or public function,provided that the bodies indicated in sub-section (1)(e) are public bodies only to the extent of their statutory or public functions.
- (2) The Minister may by order designate as a public body any body that carries out a public function.
- (3) For purposes of this Act, a private body includes any body, excluding a public body, that: –
 - (a) carries on any trade, business or profession, but only in that capacity; or
 - (b) has legal personality.

Records

7. For purposes of this Act, a public or private body holds a record if: –
 - a) The public or private body holds the record, unless it holds the information on behalf of another person in a confidential fiduciary capacity; or
 - (b) another person holds the record, on behalf of the public or private body.

Request for Information

8. (1) For purposes of section 4, a request for information is a request in writing to any official of a public or private body that is in sufficient detail to enable an experienced official to identify, with reasonable effort, whether or not the body holds a record with that information.

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(2) Where a request for information pursuant to section 4(1) does not comply with the provisions of sub-section (1), the information official who receives the request shall, subject to sub-section (5), acknowledge receipts of the request and render such reasonable assistance, free of charge, as may be necessary to enable the request to comply with sub-section (1).

(3) An individual who is unable, because of illiteracy or disability, to make a written request for information pursuant to section 4(1) may make an oral request, and the official who receives an oral request shall, subject to sub-section (5), reduce it to writing, including their name and position within the body, and give a copy thereof to the person who made the request. A request can also be made electronically, in person or in writing.

(4) A request for information under section 4(2) must identify the right the person making the request is seeking to exercise or protect and the reasons why the information is required to exercise or protect that right.

(5) If an official who receives a request for information is not able to process the request themselves, they shall transfer the request to the Information Officer for the purposes of complying with sub-sections (2) and/or (3).

(6) A public or private body may prescribe a form for requests for information, but any application for information may not be rejected only on the basis that the form has not been used if sub-section (1) is satisfied and any such forms shall not unreasonably delay requests or place an undue burden upon those making requests.

(7) A request for information may be made in any of the languages of Sierre Leone.

(8) A public or private body, which receives a request for information shall provide the requester with a receipt documenting the request, date of submission and name, and position of person receiving the request and:

a. If the request is submitted in person, the official who receives the request must immediately provide the requester with a written receipt documenting the request;

b. If the request is received in any other form, the official who receives the request or the Information Officer shall send the requester a written receipt documenting the request within 2 days.

(9) Any internal processes for receiving and processing applications should be designed to promote easy, simple, quick and cheap access to information for the public

Information Officer

9. (1) Every public body shall appoint an Information Officer and ensure that members of the public have easy access to relevant information concerning the Information Officer, including his or her name, function and contact details.
- (2) The Information Officer shall, in addition to any obligations specifically provided for in other sections of this Act, have the following responsibilities: –
- (a) to promote within the public body the best possible practices in relation to record maintenance, archiving and disposal; and
 - (b) to serve as a central contact within the public body for receiving requests for information, for assisting individuals seeking to obtain information, for processing requests for information, for providing information to requesters, for receiving individual complaints regarding the performance of the public body relating to information disclosure and for monitoring implementation and collecting statistics for reporting purposes.

Time Limits for Responding to Requests

10. (1) Subject to sub-section (3), a public or private body must respond to a request for information pursuant to section 4 as soon as is reasonably possible and in any event within twenty working days of receipt of the request.
- (2) Where a request for information relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person, a response must be provided within 48 hours.
- (3) A public or private body may, by notice in writing within the initial twenty day period, extend the period in sub-section (1) to the extent strictly necessary, and in any case not more than an additional twenty working days, where the request is for a large number of records or requires a search through a large number of records, and where compliance within twenty working days would unreasonably interfere with the activities of the body.
- (4) Failure to comply with sub-section (1) is deemed to be a refusal of the request.

Notice of Response

11. (1) Where a request for information is approved by a public body or a private body, a notice must be sent to the requester in writing stating: –

- (a) the applicable fee, if any, pursuant to section 12, together with the calculations made to arrive at the amount, and the procedures for depositing that fee;
 - (b) the form in which the information will be communicated;
 - (c) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.
- (2) Where a request for information is partially or fully rejected by a public body or a private body, a notice must be sent to the requester in writing stating: –
- (a) in relation to any part of the request which is granted, the applicable fee, if any, pursuant to section 11, and the form in which the information will be communicated; and
 - (b) adequate reasons for the refusal, including the provision of the Act being relied upon, any findings on any material question of fact and referring to the material on which those findings were based;
 - (c) information concerning his or her right with respect to review the decision (including the right to appeal the amount of fees charged or the form of access provided), including the particulars of the appellate authority, time limit, process and any other forms.
- (3) In relation to any part of a request that is granted, communication of the information must take place forthwith, subject only to Section 12.

Fees

12. (1) The communication of information pursuant to a request under section 4 by a public or private body may, subject to subsections (2) to (7), be made conditional upon payment by the person making the request of a reasonable fee, which shall not exceed the actual cost of preparing and communicating the information.
- (2) Payment of a fee shall not be required for requests for personal information, and requests in the public interest.
- (3) The Minister may, after consultation with the Commissioner, make regulations providing: –
- (a) for the manner in which fees are to be calculated;
 - (b) that no fee is to be charged in prescribed cases; and
 - (c) that any fee cannot exceed a certain maximum.

- (4) The fee shall be reasonable, shall in no case exceed the actual cost of providing the information such as making photocopies or taking print outs and shall be set via regulations at a maximum limit taking account of the general principle that fees should not be set so high that they undermine the objectives of the Act in practice and deter applications
- (5) A public body shall not require payment of a fee under sub-section (1) where the cost of collecting that fee would exceed the amount of the fee.
- (6) The Information Officer or any other official processing a request may reduce or waive the fee in sub-section (1) where:
- (a) payment of the charge, or part of it, would cause financial hardship to the applicant, or to a person on whose behalf the application was made; and
 - (b) the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public.
- (7) Any body subject to the Act fails to comply with the time limits for disclosure of information, access to which the applicant is entitled shall be provided free of charge.

Means of Communicating Information

12. (1) Where a request indicates a preference as to the form of communication of information contained in sub-section (2), a public or private body communicating information pursuant to a request for information under section 4 shall, subject to sub-section (3), do so in accordance with that preference.
- (2) A request may indicate the following preferences as to the form of communication of information: –
- (a) a true copy of the record in permanent or other form;
 - (b) an opportunity to inspect the public work and take samples of work done.
 - (c) an opportunity to inspect the record, where necessary using equipment normally available to the body;
 - (d) an opportunity to copy the record, using his or her own equipment;
 - (e) a written transcript of the words contained in a sound or visual form;

- (f) a transcript of the content of a record, in print, sound or visual form, where such transcript is capable of being produced using equipment normally available to the body; or
 - (g) a transcript of the record from shorthand or other codified form.
- (3) A public or private body shall not be required to communicate information in the form indicated by the person making the request where to do so would: –
- (a) unreasonably interfere with the effective operation of the body; or
 - (b) be detrimental to the preservation of the record
- but shall nonetheless provide the requester with an opportunity to access the information in another form.
- (4) Where information exists in more than one language, communication of the record shall, from among those languages, be given in accordance with the language preference of the person making the request.
- (5) Where an information is in a language other than that which the requester understands, the public body shall translate the information into such language where it is in the interest of the general public.

Transfer Where a Record is not Held

13. (1) Where an Information Officer or other official responsible for processing the request believes that the request relates to information that is not held by the public body, the official shall transfer the request to the Information Officer in the public body which does hold the information.
- (2) A transfer of an application pursuant to s.13 shall be made as soon as practicable but not later than 5 days after the date of receipt of the application, and the applicant shall be given detailed written notice of the transfer immediately.
- (3) Where a request is transferred pursuant to sub-section (2)(a), the time limit for responding to requests under section 10 shall begin to run from the date of transfer.
- (4) A private body which receives a request pursuant to section 4(2) relating to information that is not contained in any record held by the private body shall notify the requester that it does not hold the information.
- (5) Where an Information Officer or other official responsible for processing the request believes that the request relates to information that is not held by any public body, the official shall sign a Statutory Declaration attesting to that fact and send the Statutory Declaration and a notice of rejection in accordance with s.11(2) to the requester.

Repetitive Requests

14. A public or private body is not required to comply with a request for information which falls under an exemption in Part IV or where it has recently complied with a substantially similar request from the same person.

PART III: MEASURES TO PROMOTE OPENNESS

Guide to Using the Act

15. (1) The Commissioner shall, as soon as practicable, compile in each official language a clear and simple guide containing practical information to facilitate the effective exercise of rights under this Act, and shall disseminate the guide widely in an accessible form.

(2) The guide in sub-section (1) shall be updated on a regular basis, as necessary.

Duty to Publish

17. (1) Every public body shall
- (a) within 3 months of the commencement of this Act, publish:
 - (i) the particulars of its organisation, functions and duties;
 - (ii) the powers and duties of its officers and employees;
 - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
 - (iv) the norms set by it for the discharge of its functions;
 - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - (vi) a statement of the categories of documents that are held by it or under its control;
 - (vii) 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;
 - (viii) 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 advise, and as to whether meetings of those boards, councils, committees and other bodies

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are open to the public, or the minutes 'of such meetings are accessible for public;

- (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) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xiii) particulars of concessions, permits or authorisations granted by it;
- (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
- (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- (xvi) the names, designations and other particulars of the Public Information Officers;
- (xvii) such other information as may be prescribed;

- (b) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- (c) provide reasons for its administrative or quasi judicial decisions to affected persons;
- (d) before initiating any project, or formulating any policy, scheme, programme or law, publish or communicate to the public in general or to the persons likely to be affected thereby in particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interest of natural justice and promotion of democratic principles.
- (e) upon signing, publish all contracts entered into, detailing at a minimum for each contract:
 - (i) The public works, goods acquired or rented, and the contracted service, including any sketches, scopes of service and/or terms of reference;
 - (ii) The amount;
 - (iii) The name of the provider, contractor or individual to whom the contract has been granted,

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- (iv) The periods within which the contract must be completed.
- (2) Information in sub-section (1) shall be updated at least every 6 months, while regulations may specify shorter timeframes for different types of information, taking into account how often the information changes to ensure the information is as current as possible.
- (3) It shall be a constant endeavour of every public authority to take steps to provide as much information suo moto 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.
- (4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Public Information Officer, available fee or at such cost of the medium or in print cost price may be prescribed.

Guidance on Duty to Publish

18. The Information Commissioner shall: –
- (a) Within 2 months of the Act coming into force, publish a guide on minimum standards and best practices regarding the duty of public bodies to publish pursuant to section 17; and
 - (b) upon request, provide advice to a public body regarding the duty to publish.

Maintenance of Records

19. (1) Every public body is under an obligation to maintain its records in a manner which facilitates the right to information, as provided for in this Act, and in accordance with the Code of Practice stipulated in sub-section (3).
- (2) Every public body shall ensure that adequate procedures are in place for the correction of personal information.
- (3) The Commissioner shall, after appropriate consultation with interested parties, issue and from time to time update a Code of Practice relating to the keeping, management and disposal of records, as well as the transfer of records to the Public Archives.

Training of Officials

20. Every public body shall ensure the provision of appropriate training for its officials on the right to information and the effective implementation of this Act.

PART IV: EXCEPTIONS

Public Interest Override

21. (1) Notwithstanding any provision in this Part, a body may not refuse to indicate whether or not it holds a record, or refuse to provide access to information, unless the harm to the protected interest outweighs the public interest in disclosure.

- (1) In determining whether disclosure is justified in the public interest, the public authority shall have regard to considerations including whether the disclosure would: prevent or expose an abuse of authority or neglect in the performance of an official duty; prevent or expose an unauthorised use of public funds; assist in the avoidance of wasteful expenditure of public funds; contribute to improved public participation in, and understanding of, public policy-making; expose a danger to the health or safety of an individual or the public; support the discharge of obligations to comply with legal requirements; prevent or expose the commission of offences or other unlawful acts; prevent or expose a miscarriage of justice; or support the protection of the environment.

Information Already Publicly Available

22. Notwithstanding any provision in this Part, a body may not refuse to provide access to information where the information is already publicly available.

Severability

23. If a request for information relates to a record containing information which falls within the scope of an exception in this Part, any information in the record which is not subject to an exception shall, to the extent it may reasonably be severed from the rest of the information, be provided to the requester.

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Personal Information

24. (1) A body may refuse to indicate whether or not it holds a record, or refuse to permit access to information, where to do so would involve the unreasonable disclosure of personal information about a natural third party.

(2) Sub-section (1) does not apply if: –

- (a) the third party has effectively consented to the disclosure of the information;
- (b) the person making the request is the guardian of the third party, or the next of kin or the executor of the will of a deceased third party;
- (c) the third party has been deceased for more than 20 years; or
- (d) 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.

Legal Privilege

25. A body may refuse to indicate whether or not it holds a record, or refuse to permit access to information, where:

(a) the information is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it; or

(b)

(c) Its disclosure may lead to contempt of court.

Commercial and Confidential Information

26. A body may refuse to permit access to information if: –

- (a) the information was obtained from a third party and to communicate it would constitute an actionable breach of confidence;
- (b) the information was obtained in confidence from a third party and: –
 - i. it contains a trade secret; or
 - ii. to communicate it would, or would be likely to, seriously prejudice the commercial or financial interests of that third party; or

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International Relations

26A. A body may refuse to permit access to information if the information was obtained in confidence from another State or international organisation, and to communicate it would, or would be likely to, seriously prejudice relations with that State or international organisation.

Health and Safety

27. A body may refuse to indicate whether or not it holds a record, or refuse to permit access to information, where to do so would, or would be likely to; endanger the life, health or safety of any individual.

Law Enforcement

28. A body may refuse to indicate whether or not it holds a record, or refuse to permit access to information, where to do so would, or would be likely to, cause serious prejudice to: –

- (a) the prevention or detection of crime;
- (b) the apprehension or prosecution of offenders;
- (c) the administration of justice;
- (d) the assessment or collection of any tax or duty;
- (e) the operation of immigration controls; or
- (f) the assessment by a public body of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified.

Defence and Security

29. A body may refuse to indicate whether or not it holds a record, or refuse to permit access to information, where to do so would, or would be likely to, cause serious prejudice to the defence or national security of Sierra Leone

Public Economic Interests

30 (1) A body may refuse to indicate whether or not it holds a record, or refuse to permit access to information, where to do so would, or would be likely to cause serious prejudice to:

- (a) the ability of the government to manage the economy of Sierra Leone.
- (b) The legitimate commercial or financial interests of a public body.

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- (1) Sub-section (1) does not apply insofar as the request relates to the results of any product or environmental testing, and the information concerned reveals a serious public safety or environmental risk.

Policy Making and Operations of Public Bodies

31. (1) A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to: –
- (a) cause serious prejudice to the effective formulation of government policy;
 - (b) seriously frustrate the success of a policy, by premature disclosure of that policy;
 - (c) significantly undermine the effectiveness of a testing or auditing procedure used by a public body.
- (2) Sub-section (1) does not apply to facts, analyses of facts, technical data or statistical information.

Time Limits

32. (1) The provisions of sections 26–31 apply only inasmuch as the harm they envisage would, or would be likely to, occur at or after the time at which the request is considered.
- (2) Sections 27(c), 29, 30 and 31 do not apply to a record, which is more than 10 years old.

PART V: THE INFORMATION COMMISSIONER

Appointment of the Information Commissioner

33. (1) The Information Commissioner shall be nominated by the President to the House of Parliament for ratification by a two-thirds majority vote in the House of Parliament, and after a process in accordance with the following minimum requirements: –
- (a) participation by the public in the nomination process;
 - (b) transparency and openness; and
 - (c) the publication of a shortlist of candidates.
- (2) The person to be appointed as the Information Commissioner shall –
- (a) be publicly regarded as a person who can make impartial judgments;
 - (b) have sufficient knowledge of the workings of Government;
 - (c) have not been declared a bankrupt;

- (d) have a demonstrated commitment to open government be otherwise competent and capable of performing the duties of his or her office,
 - (2) No-one may be appointed Information Commissioner if he or she: –
 - (a) holds an official office in, or is an employee of a political party, or holds an elected or appointed position in central or local government; or
 - (b) has been convicted, after due process in accordance with internationally accepted legal principles, of a violent crime and/or a crime of dishonesty or theft.
- (4) The Information Commissioner shall hold office for a term of five years, and may be re-appointed to serve a maximum of one terms
- (5) The Information Commissioner may be removed by the President upon a recommendation passed by a two-thirds majority vote of the House of Parliament.
- (6) The Information Commissioner may at any time, by writing under his or her hand addressed to the President, resign from his or her office. In such cases – who will act as the Info Commissioner until a new one is appointed? One of the Justices of the Supreme Court?

Independence and Powers

- 34. (1) The Information Commissioner shall enjoy operational and administrative and budget autonomy from any other person or entity, including the government and any of its agencies, except as specifically provided for by law.
 - (2) The Information Commissioner shall have all powers, direct or incidental, as are necessary to undertake his or her functions as provided for in this Act, including full legal personality, and the power to acquire, hold and dispose of property.

Salary and Expenses

- 35. The Information Commissioner shall be paid a salary equal to the salary of a judge of the Supreme Court of Judicature and is entitled to be paid reasonable travel and living expenses incurred in the performance of his or her duties.

Staff

- 36. The Information Commissioner may appoint such officers and employees as are necessary to enable him or her to perform his or her duties and functions and is empowered to recruit staff from outside the public service.

General Activities

37. In addition to any other powers and responsibilities provided for in this Act, the Information Commissioner may: –

- (a) monitor and report on the compliance by public bodies with their obligations under this Act;
- (b) make recommendations for reform both of a general nature and directed at specific public bodies;
- (c) co-operate with or undertake training activities for public officials on the right to information and the effective implementation of this Act;
- (d) refer to the appropriate authorities cases which reasonably disclose evidence of criminal offences under this Act; and
- (e) publicise the requirements of this Act and the rights of individuals under it.

Reports

38. (1) The Information Commissioner shall, within three months after the termination of each financial year, lay before the House of Parliament an annual report on implementation of the Act, including compliance by public bodies with this Act, the activities of his or her office and audited accounts of the office during that financial year.

(2) Parliament shall refer the annual report to the relevant Parliamentary Committee, which shall consider the Information Commissioner's report in the next possible session and report back to Parliament with its conclusions and recommendations.

(3) Each annual report shall, at a minimum, state in respect of the year to which the report relates:

- (i) the number of requests made to each public authority;
- (ii) the number of decisions that an applicant was not entitled to access to a document pursuant to a request, the provisions of this Act under which these decisions were made and the number of times each provision was invoked;
- (iii) the number of appeals sent to the Information Commissioners for review, the nature of the complaints and the outcome of the appeals;.
- (iv) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
- (v) the amount of charges collected by each public authority under this Act;
- (vi) any facts which indicate an effort by public authorities to administer and implement the spirit and intention of this Act;

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- (vii) recommendations for reform, including recommendations in respect of particular public authorities, for the development, improvement, modernisation, reform or amendment of this Act or other legislation or common law or any other matter relevant to operationalising the right to access information, as appropriate.
 - (viii) The Commissioner may from time to time lay before each House of Parliament such other reports with respect to those functions as he thinks fit.
- (4) The Information Officer of every public body shall annually submit to the Information Commissioner a report on the activities of the public body pursuant to, or to promote compliance with, this Act, which shall include information about: –
- (a) the number of requests for information received, granted in full or in part, and refused;
 - (b) how often and which sections of the Act were relied upon to refuse, in part or in full, requests for information;
 - (c) appeals from refusals to communicate information;
 - (d) fees charged for requests for information;
 - (e) its activities pursuant to section 17 (duty to publish);
 - (f) its activities pursuant to section 19 (maintenance of records); and
 - (g) its activities pursuant to section 20 (training of officials).
 - (h) the nature of the complaints and the outcome of the appeals;
 - (i) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
 - (j) any facts which indicate an effort by public authorities to administer and implement the spirit and intention of this Act;
 - (k) recommendations for reform, including recommendations in respect of particular public authorities, for the development, improvement, modernisation, reform or amendment of this Act or other legislation or common law or any other matter relevant to operationalising the right to access information, as appropriate.
- (5) The Information Commissioner may from time to time lay before each House of Parliament such other reports with respect to the Act as he or she thinks fit.

Protection of the Commissioner

39. (1) No criminal or civil proceedings lie against the Information Commissioner, or against any person acting on behalf of or under the direction of the Information

Commissioner, for anything done, reported or said in good faith in the course of the exercise of any power or duty under this Act.

(2) For the purposes of the law of libel or slander, anything said or any information supplied pursuant to an investigation under this Act is privileged, unless that information is shown to have been said or supplied with malice.

PART VI: APPEALS

Internal Appeals

39A. (1) A public body may create an internal appeal mechanism which requesters can use where they wish to complain that they have not been provided with information in accordance with the Act.

(2) Any internal appeals mechanism must be inexpensive, simple and must require disposal of the appeal within no more than 30 days.

Complaint to the Commissioner

40. A person who has made a request for information may apply to the Commissioner for a decision that a public or private body has failed to comply with an obligation under Part II, including by: –

- (a) refusing to indicate whether or not it holds a record, or to provide access to information, contrary to section 4;
- (b) failing to respond to a request for information within the time limits established in section 9;
- (c) failing to provide a notice in writing of its response to a request for information, in accordance with section 10;
- (d) failing to communicate information forthwith, contrary to section 10(3);
- (e) charging an excessive fee, contrary to section 11; or
- (f) failing to communicate information in the form requested, contrary to section 12.
- (g) refusing to accept an application requesting access to information;
- (h) any other matter relating to a request for or access to information under the Act

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Burden of Proof

40A. In any appeal made under this Act, the burden of proof shall be on the public or private body to show that it acted in accordance with its obligations under Part II.

Commissioner's Powers to Investigate

40 **B.** (1) The Information Commissioner shall have the power to conduct a full investigation, including:

- (a) to summon and enforce the appearance of persons before the Information Commissioner and compel them to give oral or written evidence on oath and to produce such documents and things as the Commissioner deems requisite to the full investigation and consideration of the complaint, in the same manner and to the same extent as a superior court of record;
 - (b) to administer oaths;
 - (c) to receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as the Information Commissioner sees fit, whether or not the evidence or information is or would be admissible in a court of law;
 - (d) to enter any premises occupied by any government institution on satisfying any security requirements of the institution relating to the premises;
 - (e) to converse in private with any person in any premises entered pursuant to paragraph (d) and otherwise carry out therein such inquiries within the authority of the Information Commissioner under this Act as the Commissioner sees fit; and
 - (f) to examine or obtain copies of or extracts from books or other records found in any premises entered pursuant to paragraph (d) containing any matter relevant to the investigation.
- (2) Notwithstanding any other Act of Parliament or any privilege under the law of evidence, the Information Commissioner may, during an investigation pursuant to sub-section (1), examine any record to which this Act applies, and no such record may be withheld from the Information Commissioner on any grounds.

Complaint Decision

41. (1) The Information Commissioner shall, subject to sub-section (2), decide an application under section 40 as soon as is reasonably possible, and in any case within 30 days, after giving both the complainant and the relevant public or private body an opportunity to provide their views in writing.

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- (2) The Information Commissioner may summarily reject applications: –
- (a) which are frivolous, vexatious or clearly unwarranted; or
 - (b) where the applicant has failed to use any effective and timely internal appeals mechanisms provided by the relevant public or private body in accordance with s.39A.
- (3) In his or her decision pursuant to sub-section (1), the Commissioner may: –
- (a) reject the application;
 - (b) require the public or private body to take such steps as may be necessary to bring it into compliance with its obligations under the Act, including:
 - (i) by providing access to information,
 - (ii) by providing access to information in a particular form;
 - (iii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
 - (iv) by publishing certain information or categories of information;
 - (v) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
 - (vi) by enhancing the provision of training on the right to information for its officials;
 - (vii) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
 - (c) require the public body to compensate the complainant for any loss or other detriment suffered; and/or
 - (d) in cases of egregious or wilful failures to comply with an obligation under Part II, by imposing a fine on the public body.
- (4) The Commissioner shall serve notice of his or her decision, including any rights of appeal, on both the complainant and the public or private body.

Appeal from Commissioner's Decisions and Orders

42. (1) The complainant, or the relevant public or private body, may, within 45 days, appeal to the court for a full review of a decision of the Information Commissioner pursuant to section 41.

(2) In any appeal from a decision pursuant to section 41, the burden of proof shall be on the public or private body to show that it acted in accordance with its obligations under the Act.

Binding Nature of Commissioner's Decisions and Orders

43. (1) The decision of the Information Commissioner is binding.
- (2) Upon expiry of the 45-day period for appeals pursuant to section 45, the Information Commissioner may certify in writing to the court any failure to comply with a decision pursuant to section 41, and the court shall sanction such failure under the rules relating to contempt of court.

PART VII: CRIMINAL AND CIVIL RESPONSIBILITY

Good Faith Disclosures

44. No one shall be subjected to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Act, as long as they acted reasonably and in good faith.

Criminal Offences

45. (1) It is a criminal offence to wilfully: –
- (a) obstruct access to any record contrary to this Act;
 - (b) obstruct the performance by a public body of a duty under this Act;
 - (c) interfere with the work of an internal appeal mechanism;
 - (d) interfere with the work of the Information Commissioner;
 - (e) destroy records without lawful authority;
 - (f) conceal or falsify records;
 - (g) Deliberately provide false, misleading, incomplete or inaccurate information in response to a request.
- (2) The Information Commissioner may fine anyone who commits an offence under sub-section (1) in an amount not less than 100,000 leones and not exceeding one million leones
- (3) The Information Commissioner shall refer cases which fall under sub-section (1) to the courts who will, on summary conviction impose a fine of not less than 100,000 leones and not exceeding one million leones and/or impose a term of imprisonment not exceeding two years.

- (4) The official shall be given a reasonable opportunity of being heard before any penalty is imposed under this section.

Other Offences

46. (1) Where any official has without any reasonable cause, failed to supply the information sought, within the period specified, the Information Commissioner shall impose a penalty of 10,000 leones, for each day's delay in furnishing the information, and the penalty shall be recovered directly from the official's salary or if they are no longer drawing a salary, via a lien on the official's property.
- (2) Where any official has refused to accept an application for information, the Information Commission shall impose a penalty of not less than 50,000 leones.
- (3) Where the Information Commission finds that a public body is guilty of persistent non-compliance with the Act, the head of the public body shall be liable to a fine of not less than 100,000 leones, which shall be recoverable from his or her salary or if they are no longer drawing a salary, via a lien on their property.
- (4) The official shall be given a reasonable opportunity of being heard before any penalty is imposed under this section.

Disciplinary Action

47. Where an official is sanctioned under s.45 or 46, the Information Commissioner and/or the court shall refer his or her case to the appropriate authority under the relevant disciplinary rules and the official shall be sanctioned in accordance with those rules.

PART VIII: WHISTLEBLOWERS

Whistleblowers [*\(referred to Article 19 for rewording\)*](#)

48. (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 body.
- (3) A fund should be established to compensate individuals who make disclosures and the modalities to be worked out by the information commission.
- (4) Information protected under this legislation must include information that which the whistleblower believes:
- (a) A crime has been committed, is about to be committed or likely to be committed
 - (b) That a person has not complied with the laws or in the process of breaking the law.
 - (c) That a miscarriage of justice has occurred or is occurring or about to occur
 - (d) That a public institution has been or is likely to waste or miscarriage resources
 - (e) Disclosure of information ca be made to employer, police, attorney general auditor general, MP, watchdog agencies, chief, councilors, religious leaders etc.

PART IX: MISCELLANEOUS PROVISIONS

Regulations

49. (1) The Minister may, by notice in the *Gazette* of the government of Sierra Leone and after consultation with the Commissioner make regulations regarding:
- (a) additional forms of communication of information under section 12(2);
 - (b) training of officials under section 20;
 - (c) reports to the Commissioner under section 21;
 - (d) any notice required by this Act; or
 - (e) any administrative or procedural matter necessary to give effect to this Act.
- (2) Any regulation under sub-section (1) must, before publication in the *Gazette*, be laid before the House of Parliament.

Interpretation

50. When interpreting a provision of this Act, every court must adopt any reasonable interpretation of the provision that best gives effect to the right to information.