

THE REPUBLIC OF UGANDA

THE ACCESS TO INFORMATION
Bill, 2004

THE ACCESS TO INFORMATION BILL, 2004 MEMORANDUM TO THE BILL

1. Article 41 of the Constitution gives every citizen a right of access to information in the possession of the State or any other organ or agency of the State, except where the release is likely to prejudice the security or sovereignty of the State, or is likely to interfere with the right to privacy of any other person. -
2. The same article requires Parliament to enact laws prescribing the classes of information referred to in the article and the procedure for obtaining access to that information. This bill is to fulfill the requirement of the Article 41 of the Constitution.
3. The Bill seeks to regulate access to Government information and records and thereby eliminate the secretive and unresponsive culture hitherto existing on Government information and records. The Bill also seeks to curtail the abuse of power, human rights violation and corruption by exposing officers and Government activities to the public.
4. The Bill is also intended to promote good governance and to improve and strengthen the culture of transparency and accountability in the public sector and add to the dimension of Constitutional democracy, equity and the rule of law.

Hon. Abdu Katuntu
MEMBER OF PARLIAMENT BUGWERI COUNTY IGANGA DISTRICT

A BILL FOR AN ACT

ENTITLED THE ACCESS TO INFORMATION ACT, 2004

An Act to Provide For Access To Information and Records in Possession Of The State And Its Agencies; Other Matters Connected Or Incidental To Access To Information; And to Generally Give Effect to Article 41 of the Constitution

Date of Assent Date of Commencement BE IT *EN* ACTED by Parliament as follows -

PART I -PRELIMINARY

Short 1 This Act may be cited as the Access To Information Act,
Title 2004

Interpre- 2 In this Act unless the context otherwise requires - tation

Objects 3 The objects of the Act are -

of the Act (a) to give effect to the constitutional right of access to information and records held by the state and other state organs and agencies;

(b) to provide justifiable limitations to the access in order-

(i) to protect privacy and commercial confidentiality ,

(ii) to maintain security and good governance,

(iii) to balance it with other rights, particularly the inherent fundamental rights and freedoms;

(c) to generally promote transparency accountability and respect to human rights and the rule of law.

General 4 (1) ---The provisions of this Act shall apply to all application information and records of Government Ministries, Departments, Statutory Corporations and bodies, Commissions and other Government organs and agencies, unless exempted under this Act.

(2) This Act shall not apply to -

(a) Cabinet records or those of its Committees,

(b) Records of court proceedings before the conclusion of the case,

(c) Personal information regarding a judicial officer hearing a particular case or involved in a special tribunal or commission of inquiry .

PART II - ACCESS TO RECORDS

Right of 5 Every citizen has a right to, and shall, on request be given access access to any information or records under the control of any to Government or Ministry or department, Statutory information Corporation, authority or commission government organ or agency or any other public body.

Request 6 (1) A person shall be given access to a record of public to comply body if - with (a) the request submitted complies with all the requirements requirements relating to requests under this Act;

(b) the request is not refused under the provisions of chapter three of this Act.

(2) A request made under subsection (1) may contain information or records containing personal information relating to the person requiring the information.

(3) A request under subsection (1) shall not be affected -

(a) by any reason given for the need to access the information;

(b) by any conclusion made by the information officer or a ny other public officer as the reason for the request to access the information.

Machine 7 Where the record or information requested for does not readable exist in hard form document but can be produced from a records machine readable record under the control of the public body using computer hardware and software, with the technical expertise normally used by that public body, the record or information shall be deemed to be record or information under the control of that public body.

A person 8 (1) A person given access to a record or part thereof shall given access be given an opportunity to examine the record or be to examine given a copy for examination. record

(2) where access to a record is to be given to a person having a disability and the person requests that access to be given in an alternative format, a copy of the record shall be given in an alternative format.

(a) forthwith, if the record exists in the alternative format that is acceptable to that person; or

(b) within a reasonable period to allow the public body to prepare or cause to be prepared the alternative format, unless the making of the alternative format is considered outrageously expensive compared to the information require.

Language 9 Access to information shall be given in the official language of access but information may be given to a person requesting for the to information the information, on request, if the head of the public body having control of the record considers it to be in public interest to cause a translation of the record.

PART III - MANNER OF ACCESS TO INFORMATION

Information 10

- (1) The Permanent Secretary or the Chief Executive Officer of a public body shall be the information officer of that public body.
- (2) Every public body shall designate such number of its officers as it necessary to provide quick access of its records to the public as assistant information officers.
- (3) The information officer shall be in charge of the assistant information officers in his or her public body.
- (4) The information officer may delegate any of the powers or duties conferred on the information officer to the assistant information officer.
- (5) In deciding whether to delegate the powers or duties, the information officer shall give due consideration to the need to render the public body's records and information as accessible as is reasonably possible.
- (6) Any delegation under this section shall be in writing and may be withdrawn at any time but such delegation shall not prevent the information officer from exercising any of the powers or performing any of the duties delegated.
- (7) Any right or privilege acquired, or any obligation or liability incurred, as a result of the delegation shall not be affected by any withdrawal or amendment of the delegation.

Request 11 (1) A request for access to a record or information shall for access be in writing to the information officer of the public body in control of the record or information required and shall provide sufficient details to enable an experienced employee of the body to identify the record or information.

- (2) The request for information shall among other things- (a) provide sufficient particulars of the person requesting for the information;
(b) indicate the type of access required; (c) the preferred language for access;
(d) if request made on behalf of another person, proof of the capacity in which the person is making the request, to the reasonable satisfaction of the information officer;

(3) Any person who, because of illiteracy or a disability, is unable to make a request for access to a record in accordance with the requirements of this Act may make the request orally before the information officer or an officer appointed by the information officer and the officer shall reduce such request into writing and provide a copy to the person requesting.

Notice to 12 (1) Where access to a record is requested from a public person body, the information officer shall within thirty days requesting for of receipt of the request - information

(a) give written notice to the person requesting for information as to whether or not access to the record or information will be given;

(c) if access is given, provide the records to the person requesting within thirty days from the date the request is received.

(2) The information officer may extend the period for providing information under subsection

(1) if -

(a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the public body;

(b) consultations are necessary to comply with the request and such consultations cannot be reasonably completed within one month,

(c) the requested information involves a third party and notice has to be given to that third party

(3) Where request for information is refused the information officer shall state, in the notice given under subsection (1), the reasons for refusal and specifically state -

(a) whether the record does not exist;

(b) whether the refusal is made under a specific section of this Act and specify the Section;

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Duty to 13 (1) If a person informs the information officer of a public body that he or she wishes to make a request for person access to a record of that public body, the information requesting officer shall give reasonable assistance to enable that information person to comply with the requirements of this Act.

(2) If a person requesting for information makes a request which does not comply with the requirements, the information officer shall not refuse the request unless

(a) reasons for refusal have been given to the person requesting;

(b) the information officer has identified a person to give assistance to the person requesting and the person has not used the assistance,

(c) all the relevant information has been given to the person requesting to comply with the requirements but has not amended his or her request.

(3) when computing the period within which the person requesting for information is to receive the information, the period taken by the person requesting to amend and confirm the request under this section shall not be considered.

(4) If it is apparent on receipt of a request that the request should have been made to another public body, the information officer who received the request shall, taking into account the quickest way of giving access-

- (a) assist the person requesting to make the request to the information officer of the relevant public body; or
- (b) transfer the request to the relevant information officer and inform the person requesting for the information.

Transfer 14 If a request for information is made to a public body -
of request (a) which has not possession of the information or record;
(b) which has possession but has not control of the record;

(c) which is not closely connected with such information, in that the subject matter is closely connected with the functioning of another public body.

(d) where the record required contains commercial information the disclosure of which will affect the economic policy or the implementation of the economic policy of the State.

the information officer to whom the request is made shall, within fourteen days after the request is received, transfer the request to the information officer of the relevant public body and if there are more than one public body having interest, to the public body with the highest commercial interest.

(2) If the information officer transferring a request under subsection (1) is in possession of records relevant to or which can be helpful to the public body to which the request is transferred, the information officer shall send the record or a copy of the record with the request transferred.

(3) If a request is made to a public body in respect of which -

(a) the record is not in the possession or under the control of that public body and the information officer does not know which public body has the possession or control of the record;

(b) the subject matter is not closely connected to the functions of that public body, and the information officer does not know whether it is connected to the functions of any other public body, the information officer to whom the request is made shall within fourteen days of the receipt of the request transfer the request to the Head of the Public Service.

(4) The Information Officer of a public body to whom a request is transferred shall take the request as if it were received by the information officer on the date on which it was received by the information officer who transferred it.

(5) On the transfer of a request under this section, the information officer making the transfer shall -

(a) notify the person who made the request of the transfer of the request;

- (b) give reasons for the transfer; and
- (c) give the physical or other address and contact of the public body and its information officer to which the request is transferred. i

Preservation 16 Where the information officer of a public body receives a request for access to information, he or she shall ensure that the records concerned are properly preserved until the request is met and where there is an appeal until all the procedures for appeal are exhausted.

Records 17 (1) The information officer of a public body shall, by that affirmation, notify a person requesting for information that it is not possible to give access to the information if -
(a) all reasonable steps have been taken to find the record requested for but cannot be found; (b) if the record requested for does not exist.

(2) The affirmation under subsection (1) shall give a full account of all steps taken to find the record or determine the existence of the record, including all communications made in relation to the search.

(3) Where after notice is given under this section the record in question is found, the information officer shall give access to the person requesting unless access is refused on other ground under this Act.

Deferral 18 (1) Where the information officer of a public body has decided to give access to a record requested for but the record -
(a) is to be published within ninety days after the receipt of transfer of the request;
(b) is required by law to be published but is not, yet published;
(c) has been prepared for submission to any legislative body or a particular person but is yet to be submitted,

the information officer may delay access to the record for a reasonable period to enable the publication or submission to take place.

(2) The information officer shall give notice to the person requesting of any delay under subsection (1) including -

- (a) the likely period for which access is to be delayed;
- (b) the cause of the delay;
- (c) advice to the person requesting to give reasons why the information should be accessed before publication or submission within thirty days after receiving the notice.

(3) If after a person requesting makes a request under subsection (2)(c) and there is reasonable grounds to believe that the person requesting will suffer substantial prejudice if access is delayed, the information officer shall give access to the records.

Decision 19 (1) The information officer to whom a request for access is made or transferred shall, as soon as reasonably possible but in any case within thirty days after the request is received -

- (a) decide whether to grant the request;
- (b) inform the person requesting for access and where the person requesting indicated a particular manner of access, the notice shall be in that manner;
- (c) if request for access is granted inform the person the form in which access will be given and the access fee payable;
- (d) if request for access is refused give reasons for refusal. 1

Extension 20 (1) The information officer to whom a request is made or of period transferred may extend the period within which to to deal with respond to the request for a period not exceeding request thirty days if -

- (a) the request is for a large number of records or requires a search through a large number of records and excessive speed would interfere with the activities of the public body;
 - (b) the request requires a search for records in, or collection for an office which is situated in a different district from that of the information officer;
 - (c) extensive consultations within or with another public body is necessary to decide upon the request and cannot reasonably be completed within the original thirty days.
- (2) If a period is extended under subsection (1) the information officer shall inform the person requesting within the original thirty days and shall state the period of extension and reasons for the extension.

Deemed 21 Where the information officer fails to make a decision on a refusal request or fails to give notice to a person requesting within to give the prescribed period of thirty days, the information officer access shall be deemed to have refused the request.

Fees 22 The Minister shall, in consultation with the Minister for responsible for finance prescribe the fees payable for access access to information and may prescribe different amounts for different types of information.

Form 23 (1) Where notice *of* access is given to a person requesting **of** for access, the person shall be given access on access payment *of* the prescribed fee.

(2) .-; The form *of* access to a record shall be in the following -

- (a) if the record is written or printed, by supplying a copy of the record or by making arrangement for the inspection *of* the record;

(b) if the record is in a form which visual images or printed transcriptions of those images are capable of being reproduced by means of equipment which is ordinarily available to the public body concerned, by making arrangements to view those images or be supplied with copies or transcriptions;

(c) if the record is recorded and they can be reproduced in a form of sound by equipment ordinarily available to that public body, by making arrangements to listen to the sound recording and if written or printed transcription can be made from those sounds with equipment ordinarily available by the public body by supplying such transcriptions;

(d) If the record is on computer or other electronic or machine readable form ordinarily available to the public body, by providing a printed copy using the expertise ordinarily available;

(e) in the case of a record available or capable of being available in a computer readable form, by supplying a copy in that form;

(f) in any other case, by supplying a copy in that form using the ordinarily available method;

(2) If the person requesting for information requested access in a particular form access shall be given in that form unless to do so would -

(a) interfere unreasonably with the effective administration and functioning of that public body;

(b) be detrimental to the preservation of the record, or

(c) amount to an infringement of any copyright not owned by the state or that public body.

(3) If a request is made available by inspection, viewing or hearing, the person requesting may make copies or transcribe the record using his or her equipment unless doing so would -

(a) unreasonably interfere with the effective administration or functioning of the public body;

(b) be detrimental to the preservation of the record; or

(c) amount to infringement of a copyright not owned by the state or that public body.

(4) If access is given by supply of a copy it shall be supplied in the most appropriate method available by the public body.

Access to 24 (1) If the information officer grants a request for a record health made by a medical practitioner about the physical or records mental health or well being of the person requesting or of a person on whose behalf the request is made and the information officer or medical practitioner is of the opinion that the access might cause serious harm to the physical, mental health or the well being of the person to whom the record relates the information officer shall make the final decision after consultation with a medical practitioner nominated

by-

(a) the person to whom the records relate;

(b) if the person to whom the records relate is under the age of eighteen years, a person having parental responsibility of that person;

(c) if the person to whom the records relate is otherwise incapable of managing his or her affairs, a person legally managing the affairs of that person.

(3) If after having access of the record the medical practitioner nominated under subsection (1) is of the opinion that access of the record to the person to whom they relate is likely to cause serious harm to the physical or mental health or the well-being of the person, then the information officer shall only give access after adequate counseling or arrangement for counseling are made for the person to whom the record relates.

PART III - EXEMPTION FROM ACCESS

Information 25 (1) The information officer to whom request for access of obtained record is made or transferred shall refuse to give from access if the record requested for contains information foreign that was obtained in confidence from - state etc

(a) the government of a foreign state or institution; (b) an international organization or any department of an international organization; (c) a District or Sub -county Council.

(2) The information officer may give access to any information referred to under sub-section (1) if the relevant foreign state, international organization or Council consents to the access or makes the information public.

International 26 (1) The information officer may refuse access to any Mfairs and record that contains information which, if disclosed, Defence could be injurious. to. the conduct of international affairs and defence of the country or its allied states or could be injurious to the detection, prevention or suppression of subversive or hostile activities and without prejudice to the generality of the foregoing may refuse to release the following information-

(a) information relating to military tactics or strategy, or relating to military exercises or operations undertaken in preparation for hostilities or in connection with the detection, prevention or suppression of subversive or hostile activities;

(b) information relating to the quantity, characteristics, capabilities or deployment of weapons or other defence equipment or of anything being designed, developed, produced or considered for use as weapons or other defence equipment;

(c) information relating to the characteristics, capabilities, performance, potential, deployment, functions or role of any defence establishment, of any military force, unit or personnel or of any organization or person responsible for the detection, prevention or suppression of subversive or hostile activities;

(d) information obtained or prepared for the purpose of intelligence relating-

(i) the defence of the country any allied state or

(ii) the detection, prevention or suppression of subversive or hostile activities; I

(e) information obtained or prepared for the purpose of intelligence respecting foreign states, international organizations or citizens of foreign states used by the Government in the process of deliberation and consultation or in the conduct of international affairs;

(g) information on methods of, and scientific or technical equipment for, collecting, assessing or handling information referred to in paragraph (d) or (e) or on sources of such information;

(h) information on the positions adopted or to be adopted by the government, governments of foreign states or international organization for the purpose of present or future international negotiations;

(i) information relating to the communications or cryptographic systems of the state or foreign state used

i. for the conduct of international affairs

ii. for the defence of Uganda or any allied state, or

iii. in relation to the detection, prevention or suppression of subversive or hostile activities.

(2) In this section "subversive or hostile activities" means

(a) espionage against Uganda or any allied state (b) sabotage,

(c) activities directed toward the commission of terrorist acts, including hijacking, in or against Uganda or foreign states,

(d) activities directed toward accomplishing government change within Uganda or foreign states by the use of or the encouragement of the use of force, violence or any criminal means,

(e) activities directed toward gathering information used for intelligence purposes that relates to Uganda or any allied states or states,

(f) activities directed toward threatening the safety of the people of Uganda, employees of the Government or property of the government, and

(g) any other activity prohibited under the Anti Terrorism Act.

Law enforcement 27 The information officer of a public body may refuse investigations to disclose any record requested under this act that and Security contains

(a) information obtained or prepared by any investigative body in the course of lawful investigations pertaining to

(i) the detection, prevention or suppression of crime,

(ii) the enforcement of law and order,

(iii) activities suspected of constituting threats to the security of the state,

if the record came into existence less than twenty years prior to the request;

(b) information relating to investigative techniques or plans for specific lawful investigations;

(c) information the disclosure of which could reasonably be expected to be injurious to the enforcement of any law and order including, information

(i) relating to the existence or nature of a particular investigation,

(ii) that would reveal the identity of a confidential source of information, or

(iii) that was obtained or prepared in the course of an investigation; or

(d) information the disclosure of which could reasonably be expected to be injurious to the security of organizations.

(2) The information officer may refuse to disclose any record requested under this Act that contains information that could reasonably be expected to facilitate the commission *of an offence*, including, any information

(a) on criminal methods or techniques;

(b) that is technical information relating to weapons or potential weapons; or

(c) on the vulnerability *of* particular buildings or other structures or systems, including computer or communication systems, or methods employed to protect such buildings or other structures.

Protection 28 (1) the information officer *of* a public body shall refuse a *Of* privacy request for access *of* a record if its disclosure would involve the unreasonable disclosure *of* personal information about a third party, including a deceased person.

(2) Notwithstanding the provisions *of* subsection (1) a record relating to an individual may be disclosed if the record

(a) is about an individual who has consented to the disclosure to the person requesting for the records;

(b) was given to the public body by the individual to whom it relates and the individual was informed that the information falls in a class *of* information that might be released to the public;

(c) is already available to the public;

(d) is about an individual's physical or mental health or well-being, and the individual is under the care *of* the person requesting more especially if it would be in the individual's best interest;

(e) is about a deceased person and the person requesting is that person's next of kin or is making the request with the written consent of the next of kin;

(f) is about an individual who is or was an official of that public body and the record required relate to the office or the functioning of that person while in office.

Third party 29 (1) Subject to this section, the information officer commercial of a public body shall refuse to disclose any information record requested under this Act that contains -

(a) trade secrets of a third party;

(b) financial, commercial, scientific or technical information that is confidential information supplied to a public body by a third party and is treated consistently in confidential manner by the third party;

(c) information the disclosure of which could result in material financial loss or ' gain to, or could prejudice the : competitive position of, a third party; or j

(d) information the disclosure of which could interfere with contractual or other negotiations of a third party.

(2) The information officer shall not, refuse to disclose a part of a record if that part contains the results of product or environmental testing carried out by or on behalf of a government body unless the testing was done as a service to a person, a group of persons or an . organization other than a government body and for a fee.

(3) The information officer may disclose any 1 record that contains information referred to in ' subsection (1) with the consent of the third party to whom the information relates.

(4) The information officer may disclose any record requested under this Act, that contains information referred to in paragraph (1) (b), (c) or (d) if that disclosure would be in the public interest as it relates to public health, public safety or protection of the environment and, if the public interest in disclosure clearly outweighs in importance any financial loss or gain to, prejudice to the competitive position of or interference with contractual or other negotiations of a third party.

Protection 30 (1) The information officer of a public body shall refuse of confidential access to a record - information (a) if the disclosure would constitute a breach of a third duty of confidence owed to a third party in party terms of an agreement;

(b) If the record consists of information supplied in confidence by a third party and its disclosure could prejudice future supply of similar information or information from the same source;

(c) If it is in public interest that similar information r supplied by the third party, or information from the ' same source, should continue to be supplied.

(2) Record referred to under subsection (1) may be disclosed in so far as it consists of information -

(a) already available to the public,

(b) to which the third party has, in writing, consented to disclose.

Protection 31 The information officer of a public body shall refuse access to a record - of individual (a) if disclosure could lead to endangering the life or and property physical safety of an individual;

(b) if disclosure may prejudice or impair -

(a) the security of a building, structure or system including computer and communication system;

(b) the security of transport,

(c) the methods, systems, plans or procedures for the protection of - (i) a witness,

(ii) the safety of the public,

(iii) the security of property.

Protection 32 The information officer shall refuse access to a record of records privileged from production in legal proceedings unless privileged the person entitled to the privilege has waived the privilege. in legal proceedings

Protection 33 (1) The information officer of a public body may refuse a of economic request for access to a record of the body if its interest of disclosure is likely to materially jeopardize the of the State economic interests of financial welfare of the state

(2) The information referred to in subsection (1) includes information under discussion by Government about-

(a) a contemplated change in, or maintenance of, a policy substantially affecting the currency, coinage, legal tender, exchange rates or foreign investment;

(b) a contemplated change in or decision not to change -

(i) credit or interest rates;

(ii) customs or excise duties, taxes or any other source of revenue;

(iii) the regulation or supervision of financial institutions;

(iv) government borrowing; or

public body, and its disclosure would reveal a serious public safety or environmental risk.

(5) For the purposes of subsection (4) (c), the results of any product or environmental testing *or* other investigation do not include the results of preliminary testing or other investigation conducted for the purpose *of* developing methods of testing or other investigation.

Protection 34 (1) The information officer *of* a public body shall refuse a of research request for access to a record if the record contains information about research being *or* to be carried *out by* *or* on behalf *of* a third party, the disclosure of which could expose -

(a) the third party;

(b) a person that is *or* will be carrying out the research *on behalf of* the third party; or (c) the subject matter *of* the research, to serious disadvantage.

(2) The information officer may refuse a request for access to a record if the record contains information about research being *or* to be carried *out by or on behalf of* a public body, the disclosure of which is likely to expose -

(a) the public body;

(b) a person that is *or* will be carrying *out* the research *on behalf of* the public body; *or*

(c) the subject matter of the research, to serious disadvantage;

Operations 35 (1) Subject to subsection (3) and (4) the information of public officer may refuse a request for access to a record - bodies (a) if the record contains -

(i) an opinion, advice, report or recommendation obtained or prepared;

or

(ii) an account *of* a consultation, discussion *or* deliberation that has occurred, including, but not limited to, minutes *of* a meeting, for the purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed by law; or

(a) if the disclosure of the record could reasonably frustrate the deliberative process in a public body or between public bodies by inhibiting the candid -

(a) communication of an opinion, advice, report or recommendation; or

(b) conduct of a consultation, discussion or deliberation; or

(c) if the disclosure of the record could, by premature disclosure of a policy or contemplated policy, could frustrate the success of that policy.

(2) The information officer of a public body may refuse a request for access to a record if -

(a) the disclosure of the record could jeopardize the effectiveness of a testing, examining or auditing procedure or method used by a public body;

(b) the record contains evaluative material, whether or not the person who supplied it is identified in the record, and the disclosure of the material would breach an express or implied promise which was -

(i) made to the person who supplied the material; and

(ii) to the effect that the material or the identity of the person who supplied it, or both, would be held in confidence; or

(c) the record contains a preliminary working or other draft of an official of a public body.

(3) A record shall not be refused under subsection (1) or (2) if the record came into existence more than twenty years before the making of the request concerned.

Frivolous 36 The information officer of a public body may refuse a or vexatious request for access record if - requests

- (a) the request is manifestly frivolous or vexatious; or
- (b) the work involved in processing the request would substantially and unreasonably divert the resources of the public body.

Disclosure 37 Notwithstanding the provisions of the other sections in this in public chapter, access may be given for any information requested interest for if

- (a) the disclosure of the record would reveal evidence of substantial contravention of or failure to comply with any law;
- (b) the disclosure of the record would reveal an eminent and serious public safety or environment risk; or
- (c) the public interest in the disclosure of the record clearly outweighs the harm contemplated in the disclosure.

PART IV -THIRD PARTY INTERVENTION

Notice to 38 (1) Where the information officer of a public body Third parties intends to disclose any record requested for that contains or which might contain -

- (a) trade secrets of a third party;
- (b) financial, commercial, scientific, or technical information that is confidential information supplied to the public body by the third party;
- (c) information the disclosure of which could result in material financial loss or gain, prejudice the competitive position of the third party or interfere with contractual or other negotiations of the third party

the information officer shall, if the third part can be located, within thirty days after the request is received, give written notice to the third party of the request and the intention to disclose the record.

(2) The third party to whom a notice is required may waive the requirement and where the third party consents to the disclosure the third party shall be deemed to have waived the requirement.

(3) A notice given under subsection (1) shall include

- (a) the intention of the information officer to release the record;

(b) description of the content of the record, that it belongs to and was supplied by or relate to the third party and

(c) that the third party may, within twenty days after the notice, make representation as to why i the record should not be disclosed.

(4) The information officer may extend the period ' provided under subsection (3) (c) if the time limit prescribed under section 20 is extended but the extension under this subsection shall not exceed the extension under section 20.

Representation 39(1) The third party to whom notice is given under by third section 38 shall make the representation within party the period stated in the notice and the information officer shall within thirty days of the notice make a decision whether or not go give access to the record.

(2) The representation made under subsection (1) shall be given in writing unless the information officer provides otherwise.

(3) The information officer shall give the third party notice of the decision made under subsection (1) and the notice shall include -

(a) that the third a party is entitled to request for a review of the decision, and

(b) that the person who requested for access will be given access unless a review is requested

PART V -COMPLAINT AND APPEALS

Chief 40 The Permanent Secretary Ministry of Public Service shall be Information the Chief Information Officer.

Right of 41 (1) *Any* person or body aggrieved by a decision of an complaint information officer may forward a complaint to the and appeal Information Officer.

(2) *Any* person or body aggrieved by a decision of the Chief Information Officer may appeal to the High Court.

Investigation 42 (1) A person forwarding a complaint to the Chief Complaint Information Officer may request the Chief Information Officer to investigate into the matter complained against.

(2) The Chief Information Officer may determine the procedure to be followed in an investigation.

(3) Any investigation under this section shall be conducted in private.

(4) The Chief Information officer shall give the complainant and the relevant information officer reasonable opportunity to make representations.

Manner 43 (1) A complaint to the Chief Information Officer under of lodging section 41 - complaint (a) shall be lodged in the prescribed form within thirty days of a decision being made and notice shall be given to all relevant parties.

(c) Shall state the subject matter of the complaint and the reasons for the complaint and may include any other information known to the complainant.

(c) shall state the manner of communication in which the complainant may get to know the decision of the Chief Information Officer.

(d) Shall be accompanied by the prescribed fee for complaints.

(2) A complaint may be lodged by a representative of the aggrieved person or body or any other person authorized by that person or body.

Decision 44 (1) As soon as is reasonably possible but in any case not on a later than thirty days from the receipt of the compliant complaint the Chief Information officer shall make a decision on the complaint.

(2) The Chief Information Officer shall as soon as a decision is made on the complaint

(a) give notice of the decision to the complainant, any relevant third party, and the respondent;

(b) give reasons for the decision made, and

(c) inform the parties of their right to appeal to the High Court.

(3) In making a decision the Chief Information Officer

(a) confirm the decision made by the relevant information officer;

(b) make a different decision from the decision made by the relevant information officer.

45 (1) As soon as the complaint is lodged with the Chief Information Officer against a refusal of access to a record the Chief Information Officer shall, within ~ thirty days and in writing, inform any third party to whom or which the record relates, unless all necessary steps to locate the third party have been unsuccessful.

(2) When informing a third party of the complaint the Chief Information Officer shall State -

(a) that he or she is considering a complaint against refusal of access to a record and describe the content of the record and the relevant section of this Act under which refusal was made;

(b) the name of the complainant,

(c) whether the provisions of section 37 of this Act relating to disclosure in public interest might apply and state reasons for having such opinion;

(d) that the third party may within a prescribed period make a written representation why the request for access should not be granted.

(3) A third party notified under subsection (2) or who may get knowledge of the complaint other than under subsection (1) may

(a) within the prescribed period make a written representation to the Chief Information Officer why access should not be given, or

(b) give written consent for the disclosure of the record to the person requesting.

(4) Any failure to respond after notice has been given to the third party may be taken to be consent for the disclosure of the relevant record.

Appeal 46 (1) A person aggrieved by a decision regarding a request to High for access to a record may only apply to the High Court after exhausting all the procedures for complaint.

(2) A person referred to under sub-section (1) may, by application, within a prescribed period, apply to the High Court for appropriate relief.

Rules of 47 (1) The Ministry with the approval of the Chief Justice

Procedure shall make rules of procedure to be followed in any for appeal under this Act.

(2) Any rules made under subsection (1) shall be approved by Parliament before their publication in the Gazette.

Disclosure 48 (1) Despite this Act and any other law, any court hearing of records an appeal against a decision, may examine any record by court of a public body to which this Act applies, and no such record may be withheld from the court on any grounds.

(2) The court may not disclose to any person, including the parties to the proceedings concerned, other than the public body referred to in subsection (1) -i

(a) any record of public body which, on a request for access, may have been refused under this Act, i

(b) if the information officer of a public body or the Chief Information Officer in refusing to grant access to a record refused to confirm or deny the existence or non-existence of the record, any information as to whether the record exists.

(3) The court under subsection (1) may-

(a) receive representation *ex parte*:

(b) conduct hearings in camera; and

(c) prohibit the publication of such information in relation to the proceedings as the court determines, including information in relation to the parties to the proceedings and the contents or orders made by the court in the proceedings.

Civil 49 (1) :- For the purposes of this Chapter proceedings on proceedings application are civil proceedings.

(2) The rules of evidence applicable in civil proceedings .apply to proceedings on application under this

chapter. I

(3) The burden of establishing that -

(a) the refusal of a request for access; or

(b) any decision taken under this Act complies with the provisions of this Act rests on the party claiming that it complies.

Decision 50 (1) The court hearing an appeal may grant any order that is on appeal just and equitable; including orders -

(a) confirming, amending or setting aside the decision which is the subject of the application concerned;

(b) requiring from the information officer of a public body to take such action or to refrain from taking such action as the court considers necessary within a period mentioned in the order:

(c) granting an interim or specific relief, a declaratory order specific performance, or compensation: or

(d) as to costs.

PART VI -REPORT TO PARLIAMENT

Annual 51 (1) The information officer of each public body shall, report within the annual report of that public body, submit a report to Parliament on the requests on access to reports or information made to that body and shall indicate whether access was given or not and if access was not given give reasons for the denial.

(2) The Chief Information Officer shall give an annual report to Parliament on all complaints handled by .-' him or her and any appeals that went to the High , Court.

(3) Any report submitted to Parliament under this Act shall go through such procedures that other reports to Parliament go through.