

PARLIAMENT OF INDIA
RAJYA SABHA

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**DEPARTMENT - RELATED PARLIAMENTARY
STANDING COMMITTEE ON PERSONNEL, PUBLIC
GRIEVANCES,
LAW AND JUSTICE**

THIRD REPORT

ON

THE RIGHT TO INFORMATION BILL, 2004

**(PRESENTED TO THE RAJYA SABHA ON 21ST MARCH, 2005)
(LAID ON THE TABLE OF THE LOK SABHA ON 21ST MARCH, 2005)**

**RAJYA SABHA SECRETARIAT
NEW DELHI
MARCH, 2005/PHALGUNA, 1926 (SAKA)**

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COMPOSITION OF THE COMMITTEE (2004-05)

1. Shri E.M. Sudarsana Natchiappan ----- *Chairman*

RAJYA SABHA

2. Dr. Radhakant Nayak
3. Shri Balavant *alias* Bal Apte
4. Shri Ram Nath Kovind
5. Shri Varinder Singh Bajwa
6. Shri Ram Jethmalani
7. Dr. P.C. Alexander
8. Shri Tariq Anwar
9. Shri Raashid Alvi
10. Vacant

LOK SABHA

11. Dr. Shafiqurrahman Barq
12. Shrimati Bhavani Rajenthiran
13. Shri Chhatar Singh Darbar
14. Justice (Retd.) N.Y. Hanumanthappa
15. Shri Shailendra Kumar
16. Shrimati Kiran Maheshwari
17. Shri Dahyabhai V. Patel
18. Shri Brajesh Pathak
19. Shri Harin Pathak
20. Shri V. Radhakrishnan
21. Shri Vishwendra Singh
22. Shri Bhupendrasinh Solanki
23. Prof. Vijaya Kumar Malhotra
24. Kumari Mamata Banerjee
25. Shri S.K. Kharventhan
26. Shri Shriniwas D. Patil
27. Shri A.K. Moorthy
28. Shri Ramchandra Paswan
29. Vacant
30. Vacant
31. Vacant

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri Surinder Kumar Watts, Deputy Secretary
Shri H.C. Sethi, Under Secretary
Shri Vinoy Kumar Pathak, Committee Officer

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice having been authorised by the Committee to present the Report on its behalf, do hereby present this Third Report on the Right to Information Bill, 2004.*

2. In pursuance of the rules relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha referred** the Right to Information Bill, 2004 as introduced in the Lok Sabha and pending their, to the committee on 31st December, 2004 for examination and report.
3. The Committee considered the Bill in five sittings held on the 1st, 14th and 16th February and 1st and 2nd March, 2005.
4. The Committee heard the oral evidence of the Secretary, Ministry of Personnel, Public Grievances and Pensions in its sitting held on 1st February, 2005.
5. The Committee heard the views of the prominent NGOs and eminent experts on the Bill (Annexure-E) in its sittings held on 14th and 16th February, 2005.
6. In its sittings held on 1st and 2nd March, 2005 the Committee took clause-by clause consideration of the Bill.
7. In its sitting held on 16th March, 2005 the Committee considered the draft report on the Bill and adopted the same.
8. In the said sitting, the Committee also decided that the evidence tendered before it may be laid on the Table of both the Houses of Parliament.
9. In the course of its deliberations, the Committee has made use of the background note on the Bill received from the Ministry of Personnel, Public Grievances and Pensions; similar legislations of various States of India and foreign countries; suggestions received from organisations/experts; comments of the Ministry on the views received from organisations/experts; queries raised by the Members on the Bill in the meetings; the Freedom of Information Act, 2002; 78th Report of the Committee on Home Affairs on the Freedom of Information Bill, 2000 and recommendations of the National Advisory Council (NAC) proposing amendments to the Bill.
10. For facility of reference and convenience, observations and recommendations of the Committee have been printed in bold letters in the body of the Report.
11. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by experts/organisations who deposed before the Committee and submitted their valuable suggestions on the Bill.

NEW DELHI;
March 16, 2005

E.M. Sudarsana Natchiappan
Chairman,
Committee on Personnel, Public Grievances,
Law and Justice

*Published in gazette of India (Extra-ordinary) Part II Section 2 dated the 23rd December, 2004.

**Rajya Sabha Parliamentary Bulletin Part II (No. 41891) dated the 31st December, 2004

REPORT

WORLDWIDE TREND TO PROMOTE FREEDOM OF INFORMATION

1. It is being recognized globally that public participation in the democratic and governmental process is at its meaningful best when citizens have adequate access to official information. This access lays the foundation for good governance, transparency, accountability and participation. This realization has found expression with over fifty five countries having enacted their comprehensive laws that protect the right to information and many more countries are coming forward to enact specific legislations in pursuit of this objective. Sweden, Australia, Canada, New Zealand, Belize, Pakistan, South Africa, Trinidad and Tobago, United Kingdom, Zimbabwe, Jamaica and USA are among the countries exhibiting their Governments' commitment to open governance through legislative measures guaranteeing citizens access to information.

CAMPAIGN FOR THE RIGHT TO INFORMATION IN INDIA

2.1 India too is not left behind in the race. Growing realization for open governance and assured access to information has brought it on the world map. Eight States namely, Maharashtra, Tamil Nadu, Rajasthan, Karnataka, Jammu and Kashmir, Assam, Goa and Madhya Pradesh have already enacted laws on the right to information to show their commitment for building a more dynamic and prosperous society by involving people in governance and decision making process. Not only this, the Supreme Court of India has, from time to time, interpreted article 19 which upholds the right to freedom of speech and expression; to implicitly include the right to receive and impart information. The Supreme Court's judgement in S.P. Gupta v/s Union of India (AIR 1982 SC 149) reinforced the right to information by stating:

“The citizens have a right to decide by whom and by what rules they shall be governed and they are entitled to call on those who govern on their behalf to account for their conduct. No democratic government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the government... The concept of open government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1)”.

2.2 Despite this, a demand for an 'access to information law', at the Central level, grew extensively. There had been relentless efforts and mass mobilization in favour of a comprehensive Central Act providing access to information regimes. It also became necessary to protect the fundamental right by some legal mechanism. The campaign started by some prominent social groups like Mazdoor Kisan Shakti Sangathan (MKSS) and the National Campaign for People's Right to Information, took concrete shape when in January, 1997 the Government set up a Working Group on "Right to Information and Transparency" under the chairmanship of Shri H.D. Shourie to examine the feasibility and need for a full-fledged law. The Chief Ministers, Conference held in Delhi in 1997 on 'Effective and Responsive Government' recognized the importance and approved the scheme. Thereafter, for greater deliberations, a statutory scheme was circulated to the States/Union Territories and the Ministries of Government of India who submitted their report with constructive suggestions and comments. The report of the Working Group together with the responses was placed before the Committee of Secretaries, which broadly endorsed the legislative proposal subject to certain modifications. Finally, the draft Bill was submitted to the Group of Ministers prior to approval of the Cabinet. The Cabinet approved the proposal in its meeting held on 13th May, 2000. Thus the legislative process which passed through the different levels concretised in the form of Freedom of Information Bill, 2000.

FREEDOM OF INFORMATION BILL, 2000

3. The Freedom of Information Bill, 2000 was introduced in the Lok Sabha on 25th July, 2000. The Bill was referred to the Parliamentary Standing Committee on Home Affairs for examination and report on 14th September, 2000.

4. In order to live up to the ideals reflected in the commitment to the right to information, the Bill laid emphasis on the following features contained in its 21 clauses:-

- (i) Right to information to all citizens of the country;
- (ii) Access to information held by or under the Central as well as the State Governments and local bodies;
- (iii) Obligation on every public authority to provide information and publish all records at regular intervals;
- (iv) Exemption from disclosures; and
- (v) Appellate mechanism to deal with the cases of defaults in providing information.

5. The Committee on Home Affairs presented its report to Parliament on 25th July, 2001 recommending some changes/modifications in that Bill. The Bill was passed by Parliament in December, 2002 and got assent of the President on 6th January, 2003.

6. The vigorous campaign for bringing out a Central legislation has seen only partial success as the Act had not been brought into force, as according to the Government, the basic infrastructure required for its operationalisation had not been fully established. Meanwhile, there had been growing apprehensions that the Act in many respects fell short of the aspirations and expectations of the people. The Government had reportedly received a number of representations from people/civil society/groups pointing out the key issues needing modifications so that the information access right of citizens was fully realized and the legislation truly achieved its objectives.

NEED FOR AN IMPROVED LEGISLATION

7. Having regard to the above considerations, the Government in its National Common Minimum Programme (NCMP) *inter-alia* declared that it would strive for a corruption free, transparent and accountable governance. The NCMP envisaged enactment of a more progressive, participatory and meaningful law in place of the Freedom of Information Act, 2002. In pursuance of the above commitment, the Government assigned to the National Advisory Council (NAC) the task of suggesting constructive changes in the Act of 2002. The NAC based on the inputs received from several NGOs, social groups and experts, proposed some 35 amendments to the Freedom Information Act, 2002 to ensure:-

- (i) Maximum disclosure and minimum exemptions consistent with the constitutional provisions;
- (ii) Independent appeal mechanism;
- (iii) Penalties for failure to provide information as per the law; and
- (iv) Effective mechanism for access to information and disclosure by authorities.

8. The amendments proposed by NAC were examined comprehensively by the Government and certain provisions suggested by the Council were modified keeping in view legislative, constitutional and administrative requirements. Considering that the changes envisaged were extensive, it had also been decided to enact a new legislation on the subject and simultaneously repeal the existing Freedom of

Information Act, 2002. In furtherance thereof the Right to Information Bill, 2004 (Annexure-A) was introduced in the Lok Sabha on 23rd December, 2004.

9. As per the Statement of Objects and Reasons appended to the Bill, the important changes proposed to be incorporated *inter-alia* included establishment of an appellate machinery with investigative powers to review decisions of the Public Information Officers' penal, provisions for failure to provide information as per law; provisions to ensure maximum disclosure and minimum exemptions consistent with constitutional provisions and an effective mechanism for access to information. The Statement of Objects and Reasons also reassured that the proposed legislation would provide an effective mechanism/framework for effectuating the right to information recognized under article 19 of the Constitution of India.

DEPOSITION OF THE SECRETARY, MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

10. The Secretary, Ministry of Personnel, Public Grievances and Pensions in his deposition before the Committee stated that the Bill made provisions for designation of Public Information Officers within 100 days of the enactment of the Act and such officers would be under the Ministries/Departments of Government of India. Making distinction between the Freedom of Information Act, 2002 and the present Bill, the Secretary stated that there was a definitiveness as to when action would be taken to create the required infrastructure for the implementation of this Act. There was a provision for transfer of a request by a public authority to another public authority wherein the subject matter/information was held by the latter. As per the Bill, exemptions provided in clause 8 of the Bill were not absolute and withholding of information must be balanced against disclosure in the public interest. All the exemptions were conditional and were weighed against disclosure in public interest. Clarifying the issue further, the Secretary stated that information was to be released if the public benefit in disclosing the information outweighed the harm that might be caused by such disclosure.

10.1 He further stated that the Bill envisaged creation of an independent non-judicial appellate machinery in the form of the Central Information Commission comprising an Information Commissioner and ten Deputy Information Commissioners to decide the second appeals. The Central Information Commission was to monitor the implementation of the Act and prepare an Annual Report to be laid on the table of both the Houses of Parliament.

10.2 On being asked why the Freedom of Information Act, 2002 was sought to be repealed and replaced by the Right to Information Bill, 2004, despite so much efforts put in the past to give it legislative shape, the Secretary replied that the number of amendments suggested by the NAC to the Freedom of Information Act, 2002 were quite elaborate. Therefore, it was becoming very difficult to incorporate so many amendments in the Act both cosmetic and substantive. Therefore, it was decided in consultation with the Department of Legal Affairs and Legislative Department that, perhaps a better alternative would be to bring in a new Bill incorporating all those amendments rather than to amend the Act comprehensively.

BROAD SUGGESTIONS/RECOMMENDATIONS MADE BY THE NATIONAL ADVISORY COUNCIL (NAC)

11. The Committee notes that the amendments suggested by the National Advisory Council (NAC) laid the foundation for repealing the Freedom of Information Act, 2002 (hereinafter referred to as Act of 2002) and introduction of the Right to Information Bill, 2004 (hereinafter referred to as the Bill) in the Lok Sabha. As informed by the Ministry, the suggestions of the NAC based on the public inputs were considered by the Government and substantive recommendations were incorporated in the proposed legislation. Some important recommendations of the NAC alongwith analysis of those issues in the Act of 2002 and the Bill are as follows:

- (i) The Bill should prescribe a period of 120 days within which the Act would come into force. In the Act of 2002, no time limit was specified for its commencement. It was left to the discretion of the Central Government to decide the date of commencement. In the new Bill, however, the recommendation of the NAC has been incorporated.
- (ii) As in the Act of 2002, applicability of the Bill should be expanded to the State Governments also. Provisions of the Bill at present are applicable to the Central Government and the bodies under its control.
- (iii) Definition of 'Right to Information' should be modified so as to cover some more categories therein. The Bill has incorporated the suggestion. The Act of 2002, however, had narrower definition of the term.
- (iv) Definition of 'public authority' should be modified to cover the States, Panchayati Raj Institutions and other Local Bodies: The Act of 2002 has a provision by and large of the similar nature. But the Bill restricts its applicability to the Central Government or Bodies controlled and owned by it.
- (v) Right to information should be conferred on all persons. The Bill restricts the right to citizens only.
- (vi) Information should be published within six months of the Act coming into force and thereafter be updated at least every twelve months. The Act of 2002 requires information to be published at intervals to be prescribed by the appropriate Government. The Bill, however, provides for publication of information before the commencement of the Act.
- (vii) Public Information Officers should be designated within one month of the enforcement of the Act. The Bill prescribes one hundred days from its enactment for appointment of Public Information Officers. The Act of 2002 does not fix any time limit for the purpose.
- (viii) Information seekers should have liberty to request in the official language of the area to make access procedures simple. The Act of 2002 does not give this liberty. The Bill incorporates the suggestion.
- (ix) The fee payable by the applicant for seeking information should be reasonable and should in no case exceed the actual cost of copying the information. Neither the Act of 2002 nor the Bill contains any such provisions.
- (x) Information Commissioner should impose a penalty of rupees two hundred fifty for each day's delay in furnishing the information. The Act of 2002 does not have penal provisions. The Bill does not empower the Information Commissioner to impose penalty on the delinquent Public Information Officer.
- (xi) Offences should be comprehensive and detailed and should include:
 - (a) Refusal to receive an application for information;
 - (b) Malafide denial of a request for information;
 - (c) Knowingly giving incorrect, wrong or incomplete information;
 - (d) Destroying information;

- (e) Obstructing the activities of a Public Information Officer and any Information Commissioner or the Courts. The Bill does not provide for the comprehensive/detailed list of offences. It provides penalty merely for persistent delay in supplying information.
- (xii) There should not be blanket exemption for intelligence and security agencies. Information should be released where it pertains to allegations of human rights violations besides the allegations of corruption. Proviso to sub-clause (1) of clause 21 of the Bill does not cover allegations of human right violations.

11.1 A comparative tabular statement showing the provisions of the Freedom of Information Act, 2002, the recommendations made by the National Advisory Council and the provisions of the Right to Information Bill, 2004 is appended as Annexure-B

ORAL EVIDENCE

12.1 The Committee in its meeting held on the 1st and 2nd March, 2005 heard Ms. Aruna Roy and other representatives of Mazdoor Kisan Shakti Sangathan (MKSS); National Campaign for People's Right to Information (NCPRI); eminent social activist Shri Anna Hazare and Shri Prakash Kardley, Ms. Maja Daruwala, Director, Commonwealth Human Rights Initiative (CWHRI) Delhi; and other representatives, Dr: Jean Dreze, Professor, Centre for Development Economics, Delhi School of Economics; Eminent Supreme Court Advocate and former Law Minister Shri Shanti Bhushan, Shri Shailesh Gandhi, Fellow; Indian Institute of Management, Ahmedabad and Dr. Jaiprakash, Convener; Lok Satta. The Committee also received several written suggestions from different groups, organizations and individuals on the provisions of the Bill.

12.2 The suggestions/views put forward by the organizations/individuals and the witnesses who deposed before the Committee are summarized below:-

- (i) The Bill should have a preamble to clearly state the scheme and scope of the law so as to be consistent with the principles of democracy and ideals of the Constitution;
- (ii) The applicability of the Act should not be restricted to citizens but should cover non-citizens as well;
- (iii) The Bill should not only apply to the Central Government and bodies owned or controlled by it but be extended to the States, Local Bodies or Authorities;
- (iv) The definition of 'Government' as provided in clause 2 (c) should be amended to ensure its consistency with the definition of 'public authority' in clause 2 (g);
- (v) The information regime should be extended to private sector;
- (vi) All political parties, MLAs/MPs/Ministers and such other public representatives should be included in the category of 'public authorities' under the Act;
- (vii) There should be no provision for paying fee at the time of making a request for information;
- (viii) The fee charged under clause 7 (5) must be reasonable, affordable and should in no case exceed the actual cost of supplying the information. There should be a provision for waiving the fee in case the information is in the larger public interest;
- (ix) To honour the spirit of the rule of maximum disclosure and minimum exemption, the Bill should make suitable provisions that information related to security, sovereignty and integrity of India,

relations with foreign countries/states and cabinet papers etc. as exempted under sub-clauses (a) (i) of sub section (1) of clause 8 should not be an all time exemption;

- (x) The exemptions should be qualified with a strong public interest overriding, in the sense that the citizens should have access to information about the exempted agencies, their policies, personnel etc. so far the information relates to corruption and issues of public interest;
- (xi) Clause 11 of the Bill lays down procedure for seeking third party information. This clause, by its nature, provides the Public Information Officer and the third party an opportunity to deny information on the ground of confidentiality It should, therefore, be deleted;
- (xii) Clause 12 to 15 of the Bill provide for constitution of the Centre Information Commission, appointment of Information Commissioners and Deputy Information Commissioners, their terms of offices and powers and functions etc. This is the essence of the Bill in the sense that the mechanism of access to information will depend on effectiveness of this system. It should therefore be ensured that the Commission and its functionaries perform their duties independently and with complete autonomy. For this, it is necessary to elevate their status to that of the Election Commission of India. Moreover, their appointment criteria should include elements like, integrity, transparency and accountability;
- (xiii) There should be a provision clarifying that the Information Commissioner can hear appeal where an applicant has received no response to an appeal under sub-clause (1) of clause 16;
- (xiv) Sub-clause (1) of clause 16 should be amended to provide that the appeals should be made to the head of the public authority who can delegate this power to a subordinate functionary;
- (xv) In order to ensure that the autonomy of the Commission is not impeded, sub-clause (10) of clause 16 should be amended to provide that the procedure for deciding an appeal by the Commission should be prescribed by the Commission itself instead of the Central Government;
- (xvi) Clause 17 providing penalty for delay in supplying information needs to be amended suitably as it does not prescribe the adequate punishment. Sub-clause (1) of the clause should be amended so as to recognize more acts of 'omission or commission' as offences for the purpose of imposing penalties;
- (xvii) The Commission should be authorized to initiate legal proceedings against the delinquent officer through one of its officers instead of through an officer of the Central Government;
- (xviii) An explicit provision should be made to empower the appellate authority including the Information Commission to impose all penalties available under the law;
- (xix) Clause 17 should be amended to provide a penalty of Rs.250/- for per day's delay against the defaulting Public Information Officer beyond the stipulated deadline and disciplinary action like suspension and dismissal at the departmental level;
- (xx) Clause 20 providing bar on jurisdiction of Courts should be deleted as it is both unconstitutional and inconsistent with the right to appeal to the High Court;
- (xxi) Sub-clause (1) clause 21 should be deleted or alternatively the proviso to the sub-clause be amended so as to include therein the information pertaining to human right violations. This clause, otherwise gives blanket exclusion to the intelligence and security agencies from application of the Bill; and

(xxii) Provision should be made in the Bill to remove difficulties in functioning of the proposed legislation.

12.3 The mews/suggestions received from organizations/individuals and witnesses were forwarded to the Ministry of Personnel, Public Grievances and Pensions for comments. The views/suggestions in brief and comments of the Ministry are appended as **Annexure-C**.

12.4 The Committee is of the view that the amendments/suggestions received on the Bill form an important part of the legislative process as they give an idea as to how to make the formulations better and more effective. In this endeavour, many suggestions, not incorporated in the Bill, need consideration by the Government so that the Bill can squarely meet its objects.

CLAUSE-BY-CLAUSE CONSIDERATION

13. The Committee took up clause-by-clause consideration of the Bill in its meetings held on the 1st and 2nd March, 2005.

Clause - 2

13.1 The clause defines the various terms used in the Bill.

13.2 Sub-clause (c) of the clause defines the term 'government' as follows:-

“Government in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled by the Central Government or a Union Territory Administration, means the Central Government”.

13.3 The Committee noted that the above definition of the term 'Government' restricts the right to access information to the subjects held by or under the public authority owned or controlled by Central Government, whereas the Freedom of Information Act, 2002 had an all India applicability covering State Government under the definition. The Committee also noted that eight states have already enacted specific laws protecting this right. The Committee considered the recommendation of the NAC which had also supported the idea of all India applicability of the Bill much on the pattern of the Act of 2002.

13.4 The Committee held detailed discussion on this issue and heard the views/suggestions of prominent NGOs, social groups, experts and individuals and came to the conclusion that the proposed Right to Information Bill, 2004 assumed paramount importance as it was stated to be a touchstone for democracy and development. Not only that, by passing this legislation, India would join the world community having legislations guaranteeing access to information.

13.5 The Committee is, therefore, of the view that passing a law with all India applicability will send a positive signal and would squarely serve the purpose of the proposed law.

13.6 Subject to the observations of the Committee in the foregoing paras, it suggests that sub-clause (c) should be amended in such manner as may bring the states and local bodies or authorities under its purview.

13.7 The Committee recommends that in sub-clause (k), the words 'and includes a public authority' should be deleted as one government body should not be considered a third party in respect of another government body.

13.8 The clause is adopted as amended.

Clause - 3

14. The clause confers the right to information on all citizens.

14.1 The issue who can access information triggered an animated debate. Witnesses in their deposition favoured the idea of extending the coverage of the law to all persons. Examples of some foreign jurisdictions were placed before the Committee, which permit the right to access to be exercised by all persons.

14.2 The Committee took note that the Act of 2002 gives the access right to the citizens only. Not only this, the fundamental rights enshrined in the Constitution are exercisable by citizens and not by all. After some discussion, the Committee favoured retention of the provision.

14.3 The clause is adopted without any change.

Clause - 4

15. The clause requires public authorities to maintain information within a reasonable time and publish it before the commencement of the Act. The information to be published under the Act has been categorized widely to cover a broad spectrum of information. The clause also provides for *suo motu* information through various means of communication.

15.1 The Committee sought clarification from the representatives of the Ministries of Personnel, Public Grievances and Pensions and Law and Justice with regard to the expression 'within reasonable time' used in sub clause (1) as it had apprehension that the expression could lead to undue delay in maintaining the records. Similarly, the Committee desired to specify a time limit in sub-clause (1) (b) to publish information. It observed that the NAC had also recommended a time limit for this purpose. The Secretary, Ministry of Personnel clarifying the position explained that fixing a time limit may delay the process rather than to expedite it. The idea according to him was to put information regime in place by the time the Act came into force.

15.2 The Committee however recommend that in sub clause (b) (xiii), the words, 'recipients of' should be inserted after the words 'particulars of' .

15.3 The Committee is of the view that the obligation of public authority to publish information before the commencement of the Act and thereafter update these publications at such intervals as may be prescribed, leaves wide discretion to the authority, which may lead to delay in providing the latest and updated information to the public. It, therefore, suggests that the clause should be amended in such manner as may specify the time for updating publication of information. It therefore, suggests that in sub-clause (b) after item (xvii) for the words 'and thereafter update these publications within such intervals in each year as may be prescribed' the words 'and thereafter update these publications every year' should be substituted.

15.4 The Committee recommends that in sub-clause (2) after the word 'communications' the words 'including internet' should be inserted.

15.5 The clause is adopted as amended.

Clause - 5

16.1 The clause lays down the procedure for designation of Public Information Officers within one hundred days of the enactment of this Act.

16.2 **The Committee considered the provisions contained in sub clauses (4) and (5) and felt that these may do more harm than good. It therefore, recommends that the sub-clauses should be deleted.**

16.3 **The clause is adopted as amended.**

Clause - 6

17.1 The clause prescribes the procedure for obtaining information from the Public Information Officers.

17.2 **The clause is adopted without any change.**

Clause - 7

18.1 The clause provides for disposal of request of applicants by the Public Information Officers as per the procedure prescribed.

18.2 The Committee notes that the Public Information Officer is to provide the information on payment of such fee as may be prescribed or any further fee representing the cost of providing the information. The clause thus allows the Public Information Officer to use discretion in determining the fee structure to access information. The Committee in this regard considered the views expressed by the witnesses and other suggestions received on the Bill from a wide cross section of the society, strongly arguing in favour of reasonable and affordable fee not exceeding the actual cost of supplying the information to the requester. It was also debated that if payment of fee causes financial hardship then it may invite serious obstacles in implementation of the Act.

18.3 Clarifying the position in this respect, the Ministry of Personnel, Public Grievances and Pensions has explained that in many jurisdictions across the world the factors which go to determine the fees to be charged for providing the actual information also include search charges, charges for preparing the documents for supply etc. The Bill however does not contain any provision for levying search charges etc.

18.4 **The Committee is of the view that in a country like India where a majority of the people are poor or belong to rural areas, it will not be in the fitness of thing to insist on payment of fee, which is beyond the reach of a commoner. The Committee strongly feels that people living below the poverty line should be exempted from paying any fee for accessing information and in other cases it should not exceed the actual cost of supplying the information. The Committee, therefore, recommends that provisions should be inserted to give effect to the suggested changes.**

18.5 **Subject to the above, the clause is adopted.**

Clause - 8

19.1 The clause provides for exemption of certain information from disclosure.

19.2 The Committee held detailed deliberation on the question of exemption from disclosure of information relating to sovereignty, integrity; security, foreign relations, trade secrets, cabinet papers etc. enumerated in sub-clauses (a) to (j) of the clause. The Committee heard the views of experts/NGOs and others who vehemently contended that to ensure maximum disclosure, exemption should be kept to the absolute minimum and narrowly drawn. **A Member of the Committee was of the view that the provisions regarding exemption from disclosure leave many flaws and as such they may be interpreted in a manner that may restrict or curb the extent of disclosure and widen the scope of exemptions which is against the spirit of the legislation and will defeat the very purpose of its enactment. The Committee feels that the provisions regarding exemption should be redrafted appropriately so as to logically**

justify their genuineness. The Committee, therefore, recommends that the provision should be amended suitably as suggested by the member.

19.3 Subject to the above, the clause is adopted.

Clause - 9

20.1 The clause empowers the Public Information Officer to reject a request for information where an infringement of a copyright subsisting in a person would be involved.

20.2 The clause is adopted without any change.

Clause - 10

21.1 The clause enables the public authority to sever and provide partial information which falls partly under the exempted categories and partly under the non-exempted categories.

21.2 The clause is adopted without any change.

Clause - 11

22.1 The clause seeks to disclose any information or record which relates to or has been supplied by a third party.

22.2 The clause is adopted without any change.

Clause - 12

23.1 The clause proposes to constitute the Central Information Commission to exercise the powers conferred on and to perform the functions which may be assigned to it.

23.2 The Committee is of the view that no specific qualification has been prescribed for appointment of the Information Commissioner and the Deputy Information Commissioners and scope of the areas/fields included in the eligibility criteria under sub-clause (5) is also very limited. It merely states that a person eligible for the posts of the Information Commissioner and Deputy Information Commissioners shall be persons of eminence in public life with wide knowledge and experience of administration and governance. The Committee feels that persons from other walks of life should also be considered to be eligible for appointment to these posts. **The Committee, therefore, recommends that the sub-clause should be so amended as to cover thereunder the disciplines of law, science and technology, social service, management, journalism, mass media apart from administration and governance.**

23.3 The Committee observed that sub-clause (6) unnecessarily puts a restriction on the Member of Parliament or Member of the Legislature of a State or person holding any other office of profit or carrying on any business or pursuing any profession, to be appointed as the Information Commissioner and the Deputy Information Commissioners. It therefore recommends deletion of the sub-clause.

23.4 The Committee considered sub-clause (8) and found that that the Deputy Information Commissioner would have to function as per the direction of the Central Government. The Committee feels that this provision curbs the independence and autonomy of the officers. It therefore recommends deletion of this provision.

Clause - 13

24.1 The clause seeks to provide the term of office and other conditions of service of the Information Commissioner and the Deputy Information Commissioners.

24.2 The Committee considered sub-clause (5) and felt that it would neither be desirable nor justifiable to put a restriction on the Information Commissioner and the Deputy Information Commissioners from being considered eligible for further employment to any office of profit under the Central or a State Government or any diplomatic assignment or Administrator of Union Territories on cessation of their offices. The Committee, therefore, recommends that this sub-clause should be deleted.

24.3 The Committee is of the view that the Central Information Commission is an important creation under the Act which will execute the laudable scheme of the legislation and will hold an all India responsibility for this. It should, therefore, be ensured that it functions with utmost independence and autonomy. **The Committee feels that to achieve this objective, it will be desirable to confer on the Information Commissioner and Deputy Information Commissioners, status of the Chief Election Commissioner and the Election Commissioner, respectively. The Committee, accordingly, recommends insertion of a suitable provision in the clause to this effect.**

24.4 Subject to the above, the clause is adopted.

Clause - 14

25.1 The clause lays down the procedure for removal of Information Commissioner or Deputy Information Commissioners.

25.2 The clause is adopted without any change.

Clause - 15

26.1 The clause provides for powers and functions of the Central Information Commission.

26.2 The clause is adopted without any change.

Clause - 16

27.1 The clause provides for appeal mechanism through which an aggrieved person who does not receive a decision or is aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer may prefer an appeal within the prescribed period.

27.2 The clause is adopted without any change.

Clause - 17

28.1 The clause proposes to impose penalties on the Public Information Officers for persistently delaying the information required.

28.2 The Committee notes that the provisions imposing penalty lack in many respects. Firstly, the Information Commission has discretionary power which is restricted to authorize an officer of the Central Government to file a complaint against the defaulting Public Information Officer before a Judicial Magistrate of First Class. Secondly, the Commission may do so after forming an opinion that the Public Information Officer has persistently failed to provide information and such an opinion may be formed at the time of deciding, an appeal. Thirdly, the burden of proof to establish that the Public Information Officer has

failed to provide information without any reasonable cause lies on the public. It also notes that only an appeal has been considered for the purpose of initiating penal action. Almost all NGOs/Social Groups and other persons who deposed before the Committee were of the unanimous view that penal provisions need to be strengthened, as the existing provisions were weak and ineffective. A concern was also expressed that in the absence of adequate and comprehensive penal provisions, objective of the law for which it was being brought in would not be achieved fully.

28.3 In the light of the above observations, the Committee feels that unless the Information Commission is vested with direct powers to initiate penal action against the Public Information Officers or some kind of disciplinary action under the service rules applicable to them; it would not be able to exercise due control and superintendence over the Public Information Officers who are the frontline functionaries in the access regime. In this connection, it notes that the Right to Information Act of Maharashtra is being implemented effectively in the State and one of the reasons for its success has been assigned to the stringent penal provisions of that Act. The Committee is of the view that similar provisions should also be inserted in the Central Act and shortcomings or defects as noted above be removed by amending the provisions suitably.

28.4 Subject to the above, the clause is adopted.

Clause - 18

29.1 The clause seeks to provide protection of action taken in good faith.

29.2 The clause is adopted without any change.

Clause - 19

30.1 The clause provides that this Act shall have overriding effect over the provisions of the Official Secrets Act, 1923 and any other law for the time being in force.

30.2 The clause is adopted without any change.

Clause - 20

31.1 The clause bars jurisdiction of courts in any suit, application or other proceedings in respect of any order made under this Act.

31.2 The clause is adopted without any change.

Clause - 21

32.1 The clause provides that the provisions of the Act shall not apply to the intelligence and security organizations specified in the Second Schedule. The proviso to the clause, however, casts an obligation on the authorities to provide information relating to allegations of corruption.

32.2 It was argued that keeping the intelligence and security agencies out of purview of the Act will not be in the larger public interest. Curbing disclosure or denial of any information may be justified only on the ground of principle of public interest override. In other words, information can be refused only if releasing such information may be prejudicial to the larger public interest.

32.3 The Committee appreciates the role and importance of the intelligence and security agencies. Though these agencies might have acted fairly and legitimately still they are not free from allegations of excesses. The Committee notes that keeping in view the importance of these agencies in national

security and maintaining law and order, the exemption granted by the law may not be said to be totally irrational or illogical. It is, however, of the view that giving blanket exclusion to these agencies may also not be justified. Though proviso to sub-clause (1) leaves some scope for getting information pertaining to the allegations of corruption, it is also felt desirable to include allegations of violation of human rights. The Committee, therefore, recommends insertion of a suitable provision in the proviso to the sub-clause to give effect to the suggestion of the Committee.

Clause - 22

33.1 The clause provides for preparing a report on the implementation of the provisions of this Act.

33.2 **The clause is adopted without any change.**

Clause - 23

34.1 The clause seeks to cast an obligation on the Central Government to develop and promote schemes for advancement of the information regime.

34.2 **The clause is adopted without any change.**

Clause - 24

35.1 The clause seeks to empower the Central Government to make rules so as to carry out the provisions of the legislation.

35.2 **The clause is adopted without any change.**

Clause - 25

36.1 The clause seeks to empower the competent authority to make rules so as to carry out the provisions of the legislation.

36.2 **The clause is adopted without any change.**

Clause - 26

37.1 The clause seeks to require the Central Government to lay the rules before each House of Parliament.

37.2 **The clause is adopted without any change.**

Clause - 27

38.1 The clause empowers the Central Government to remove difficulties in giving effect to the provisions of the legislation within a period of two years from the commencement of the legislation.

38.2 **The clause is adopted without any change.**

Clause - 28

39.1 The clause seeks to repeal the Freedom of Information Act, 2002.

39.2 **The clause is adopted without any change.**

Clause I, Enacting Formula and Title

39.3 **Clause 1, the Enacting Formula and the Title were adopted with some changes which were of consequential or drafting nature, namely, the figure “2004” and the words and “Fifty-fifth” to be substituted by the figure “2005” and the words “Fifty-sixth”, respectively.**

40.0 **The Committee has suggested amendments in the light of the above observations. The Bill as amended by the Committee has been appended to the Report at Annexure-D. The Committee recommends that Government should give due consideration to the proposed amendments.**

Recommendations on some key issues

40.1 During the course of deposition of the Secretary, Ministry of Personnel, Public Grievances and Pensions, some Members raised a specific query as to why the Freedom of Information Act, 2002 could not be enforced. Members were concerned with non-implementation of the Act even after a lapse of almost two years of its enactment. In fact, no convincing reply came from the Government for not enforcing the Act for such a long time. The Committee felt that an important legislation of this kind should have been enforced at the earliest to send a positive message. **The Committee is optimistic that the new Bill, after its enactment, would be enforced within the specified time affirming commitment of the Government to citizens to have access to information regimes through this legislation, which, in turn, will mobilize the people to have an effective and better participation in governance and strengthen the institution of democracy.**

40.2 Members of the Committee as well as the witnesses who appeared before it were of the view that the long title of the Bill does not explain the democratic ideals which the Bill seeks to enforce. It seems to be inadequate so far as it fails to send an appropriate message consistent with the principles of maximum disclosure.

It was argued that a Preamble to the Bill would better serve the purpose. The Committee considered the suggestions in the light of the views of the members and experts. It found that the recommendations of the National Advisory Committee were also worthwhile considering as they aimed at broadly stating the principles of disclosure, transparency and accountability. The Committee therefore recommends insertion of Preamble to the Bill on the lines suggested by a member of the Committee.

40.3 **The Committee is of the view that in the light of its recommendations in clause 2 (definitions clause) for bringing the States and other local bodies or authorities within the purview of the proposed legislation; it becomes imperative to amend definitions of the various terms to bring them in consonance with the spirit of its recommendations. Likewise, other consequential changes at appropriate places of the Bill need to be effected. The Committee also recommends insertion of new clauses 14A, 14B and 14C in the Bill providing for constitution of State Information Commission; terms of and conditions of service of State Information Commissioners and State Deputy Information Commissioners and the procedure for removal of the State Information Commissioners or the State Deputy Information Commissioners.**

**RELEVANT MINUTES OF THE MEETINGS OF
THE DEPARTMENT RELATED PARLIAMENTARY STANDING
COMMITTEE ON PERSONNEL, PUBLIC GRIEVANCES,
LAW AND JUSTICE**

**XVII
SEVENTEENTH MEETING**

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 3.00 P.M. on Tuesday, the 1st February, 2005, in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri E.M. Sudarsana Natchiappan — *Chairman*

RAJYA SABHA

2. Shri Ram Nath Kovind
3. Shri Varinder Singh Bajwa
4. Dr. P.C. Alexander
5. Shri Raashid Alvi

LOK SABHA

6. Shri Shailendra Kumar
7. Smt. Kiran Maheshwari
8. Shri Harin Pathak
9. Shri Varkala Radhakrishnan
10. Shri Bhupendrasinh Solanki
11. Shri S.K. Kharventhan
12. Shri Shriniwas D. Patil

WITNESSES

I. Representatives of the Ministry of Personnel, Public Grievances and Pensions

1. Shri A.N. Tiwari, Secretary
2. Smt. T. Jacob, Joint Secretary
3. Shri Hari Kumar, Director

II. Representative of the Legislative Department, Ministry of Law and Justice

Shri T.K. Viswanathan, Secretary

III. Representatives of the Department of Legal Affairs, Ministry of Law and Justice

1. Shri R.L. Meena, Secretary
2. Shri R.L. Koli, Joint Secretary

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri Surinder Kumar Watts, Deputy Secretary
Shri Vinoy Kumar Pathak, Committee Officer

2. The Secretary, Ministry of Personnel, Public Grievances and Pensions apprised the Committee that the Freedom of Information Act, 2002 was enacted to grant the people the right to access information held by Government. He deposed that since many provisions of the Act necessitated cosmetic and substantive amendments to make it more progressive, participatory and meaningful, the Right to Information Bill, 2003 had been introduced to repeal the Act. He stated that the title of the Act was altered to Right to Information Bill to make it manifestly clear that it comes within the ambit of fundamental right of speech and expression.

3. He informed the Committee that the legislation would commence after 120 days from its enactment and that it applies to public authorities under the Central Government, Constitutional Bodies and Bodies

established by Parliament. He clarified that the exemptions provided in the Bill were conditional and that they were to be balanced against disclosure in public interest. He elaborated that the first appeal would be to the departmental officer senior to the Public Information Officer and that the Central Information Commission which shall be a non judicial machinery would decide second appeals. He explained the penal provisions in the Bill. Responding to queries, he clarified that the information from Central Government shall be accessed through the Central Act and information from State Governments shall be accessed through the State Acts.

4. He responded to the queries raised by the Committee.
5. The Secretary, Department of Legal Affairs, Ministry of Law and Justice apprised the Committee that as regards public records pending with the Central Government or Central Government undertakings or agencies, Parliament had jurisdiction to enact laws and that as regards records maintained by the State Government, Parliament did not have any jurisdiction.
6. He clarified the points raised by the Committee.
(The witnesses then withdrew)
7. A verbatim record of the proceedings of the meeting was kept.
8. The Committee adjourned at 1.04 P.M.

***XX**
TWENTIETH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 10.30 A.M. to 1.35 P.M. and again from 2.30 P.M. on Monday, the 14TH February, 2005, in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri E.M. Sudarsana Natchiappan — *Chairman*

RAJYA SABHA

2. Dr. P.C. Alexander
3. Shri Raashid Alvi

LOK SABHA

4. Dr. Shafiqurrahman Barq
5. Justice (Retd.) N.Y. Hanumanthappa
6. Shri Brajesh Pathak
7. Shri Varkala Radhakrishnan
8. Shri Bhupendrasinh Solanki

I. WITNESSES

1. Smt. Aruna Roy, President of Mazdoor Kisan Shakti Sangathan (MKSS), Rajasthan;
2. Shri Nikhil Dey, Representative of Mazdoor Kisan Shakti Sangathan (MKSS), Rajasthan;
3. Dr. Jean Dreaze, Professor, Centre of Development Economics, Delhi School of Economics, University of Delhi;
4. Ms. Angela Rangad, Representative of National Campaign for People's Right to Information (NCPRI), Assam;
5. Shri Shekhar Singh, Convener, of National Campaign for People's Right to Information (NCPRI), New Delhi;
6. Shri Prakash Kardaley, Social Activist, Pune (Maharashtra);
7. Shri Anna Hazare, Social Activist, Pune (Maharashtra);
8. Shri Shailesh Gandhi, Mumbai;
9. Smt. Maja Daruwala, Director, Commonwealth Human Right Initiative (CHRI) New Delhi;
10. Dr. Jayaprakash Narayan, Representative of the NGO 'Lok Satta', Bangalore;
11. Shri Arvind Kezriwal, Representative of the NGO 'Parivartan', New Delhi;
12. Shri Shanti Bhushan, Senior Counsel, Supreme Court of India, New Delhi;
13. Shri Prashant Bhushan, Advocate, Supreme Court of India, New Delhi; and
14. Shri Harsh Mander, Director, Center for Equity Studies; New Delhi.

II. Representatives of Ministry of Personnel, Public Grievances and Pensions

1. Shri A.N. Tiwari, Secretary
2. Shri T. Jacob, Joint Secretary

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri Surinder Kumar Watts, Deputy Secretary
Shri H.C. Sethi, Under Secretary
Shri Vinoy Kumar Pathak, Committee Officer

2. At the outset, the Chairman welcomed the Members of the Committee to the historic occasion of consideration of Right to information Bill, 2004. The Chairman felt that this was a welcome step taken by the Government to bring transparency at all levels.

3. Welcoming the steps taken by the Government in bringing forth a legislation for a corruption free India, the representatives said that without right to information and transparency in Government, there could

be no development, no justice, neither could there be progress too. Moreover, it should be made a part of the Constitution and specified under Article 19 (1) (a). They also stressed that there should be strong penalty or imprisonment or both for non-compliance of the provisions of the legislation. They stated that the previous Act namely, Freedom of Information Act, 2002 did not have any independent appeal mechanism but this Bill did have independent appeal mechanism, which made it better. But still there had been weaknesses in the Bill. The Bill had been made applicable only to the Union Government's offices and it was not applicable to the States or to local bodies. With regard to exemption to the security agencies from the application of the legislation, it was submitted that the information pertaining to the Human Rights violation by the security agencies should be made accessible.

4. The Representative also stressed on having two separate laws *i.e.* State Law and Centre Law so that people could have a choice. Citing the example of Rajasthan where people had the option of choosing from the Panchayat Act, 1997 and the Right to Information Act, 2002 under which Act they wanted information to be furnished. Similarly, the same example should be used if the State Act and the Central Act were in existence.

5. Shri Anna Hazare, a social Activist suggested that the Act should have provisions for punishment, some States like Tamil Nadu, Rajasthan while framing such law did not have provision for punishment to appealing authority and therefore no action was being taken regarding implementation of that law in their respective States. He also suggested for fixing the amount in the Act itself for seeking information. He also informed that a team from South Korea had visited Maharashtra where Right to Information Act was in force and they had praised the provision of the same.

6. The Representatives were of the view that the role of Information Officer and the Deputy Information Officer must be a part of the Act, penal Provisions should be stringent to avoid delay. Exceptions to security agencies with regard to 'Human Rights' and 'Corruption' was another issue which needed to be addressed properly. The Representative also gave suggestions to elevate the status of Information Officer and Deputy Information Officer at par with the Election Commission so that they could function independently and without political interference.

7. The Committee expressed their apprehension about the confusion that might crop up among the people after enactment of the present legislation in those States which might already have their separate Acts on the subject. Secondly, as far as possible delay in furnishing information should be prevented and avoided in dealing with the subject. Thirdly, clause 17 was not having the required strength and also the powers of the Commission should be strengthened. Fifthly, what would be the procedure of removal of Information Commissioner or Deputy Information Commissioners, must be laid down explicitly in the legislation itself.

8. A verbatim record of the proceedings of the meeting was kept.

9. The Committee adjourned at 6.02 P.M.

XXII
TWENTY-SECOND MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 11.00 A.M. to 1.35 P.M. and again from 2.30 P.M. on Wednesday, the 16th February, 2005, in Room No. 53, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri E.M. Sudarsana Natchiappan — *Chairman*

RAJYA SABHA

2. Dr. Radhakant Nayak
3. Dr. P.C. Alexander
4. Shri Tariq Anwar
5. Shri Raashid Alvi

LOK SABHA

6. Dr. Shafiqurrahman Barq
7. Justice (Retd.) N.Y. Hanumanthappa
8. Shri Harin Pathak
9. Shri Bhupendrasinh Solanki
10. Prof. Vijay Kumar Malhotra
11. Shri A.K. Moorthy

WITNESSES

- I. **Representatives of Institute of Economic Growth, University of Delhi**
1. Prof. Bina Agarwal
2. Advocate Shruti Pandey
3. Advocate Poonam Verma
- II. **Representative of the Legislative Department, Ministry of Law and Justice**
Shri T.K. Vishwanathan, Secretary
- III. **Representative of Commonwealth Human Rights Initiative (CHRI), Delhi**
Ms. Charmaine Rodrigues
- IV. **Representative of Non-Governmental Organisation 'Parivartan'**
Shri Arvind Kezriwal
- V. **Representative of Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances and Pensions**
Shri P.I. Suvrathan, Additional Secretary
- VI. **Representative of National Capital Region Planning Board, New Delhi**
Dr. P.K. Mishra, Member-Secretary

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri Surinder Kumar Watts, Deputy Secretary
Shri H.C. Sethi, Under Secretary
Shri Vinoy Kumar Pathak, Committee Officer

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9. The Chairman welcomed the representatives of “Commonwealth Human Rights Initiative” and “Parivartan” to make a presentation on the Right to Information Bill, 2004. They deposed that greater clarity was needed with regard to definition of “Cabinet Papers” in clause 8(i) of the Bill and that in case of withholding information requested for, penalty should be imposed. They also stressed upon the need to ensure impartiality of the Information Commissioner and that he should not hold any office of profit simultaneously.

10. They replied to the queries raised by the Chairman and Members of the Committee.

11. * * *

12. * * *

13. * * *

14. A verbatim record of the proceedings of the meeting was kept.

15. The Committee adjourned at 4.20 P.M.

XXIV
TWENTY-FOURTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 4.00 P.M. on Tuesday, the 1st March, 2005, in Room No. '63', First Floor, Parliament House, New Delhi.

PRESENT

1. Shri E.M. Sudarsana Natchiappan — *Chairman*

RAJYA SABHA

2. Dr. Radhakant Nayak
3. Shri Balavant *alias* Bal Apte
4. Shri Ram Nath Kovind
5. Shri Varinder Singh Bajwa
6. Shri Ram Jethmalani
7. Dr. P.C. Alexander
8. Shri Tariq Anwar

LOK SABHA

9. Justice (Retd.) N.Y. Hanumanthappa
10. Shri Dahyabhai V. Patel
11. Shri Brajesh Pathak
12. Shri Varkala Radhakrishnan
13. Shri Bhupendrasinh Solanki
14. Shri S.K. Kharventhan
15. Shri Shriniwas D. Patil
16. Shri A.K. Moorthy

WITNESSES

- I. **Representatives of the Department of Legal Affairs, Ministry of Law and Justice**
 1. Shri T.K. Vishwanathan, Secretary
 2. Shri K.D. Singh, Additional Secretary
- II. **Representatives of the Ministry of Personnel, Public Grievances and Pensions**
 1. Shri A.N. Tiwari, Secretary
 2. Shri T. Jacob, Joint Secretary

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri Surinder Kumar Watts, Deputy Secretary
Shri H.C. Sethi, Under Secretary
Shri Vinoy Kumar Pathak, Committee Officer

2. The Chairman invited the representatives of the Ministry of Personnel, Public Grievances and Pensions and the Legislative Department, Ministry of Law and Justice to the meeting to depose on the Right to Information Bill, 2004. The Secretary, Ministry of Personnel, Public Grievances and Pensions clarified that in case of information held by the State Government, the citizens would have the option to access the requisite information, either through the Central law or the State law and that this could give rise to the issue of legislative competence. The Secretary, Legislative Department deposed that "third party" information had to be cautiously handled.
3. The witnesses responded to the queries raised by the Chairman and Members of the Committee.
(The witnesses then withdrew)
4. A verbatim record of the proceedings of the meeting was kept.
5. The Committee adjourned at 5.58 P.M.

XXV
TWENTY-FIFTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 4.30 P.M. on Wednesday, the 2nd March, 2005, in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri E.M. Sudarsana Natchiappan — *Chairman*

RAJYA SABHA

2. Dr. Radhakant Nayak
3. Shri Ram Jethmalani
4. Dr. P.C. Alexander
5. Shri Tariq Anwar

LOK SABHA

6. Shrimati Bhavani Rajenthiran
7. Justice (Retd.) N.Y. Hanumanthappa
8. Shri Shailendra Kumar
9. Shri Dahyabhai V. Patel
10. Shri S.K. Kharventhan
11. Shri Shriniwas D. Patil
12. Shri A.K. Moorthy

WITNESSES

- I. **Representative of the Ministry of Personnel, Public Grievances and Pensions**
Shri A.N. Tiwari, Secretary
- II. **Representative of the Legislative Department, Ministry of Law and Justice**
Shri T.K. Vishwanathan, Secretary
- III. **Representative of the Department of Legal Affairs, Ministry of Law and Justice**
Shri K.D. Singh, Additional Secretary

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri Surinder Kumar Watts, Deputy Secretary
Shri H.C. Sethi, Under Secretary
Shri Vinoy Kumar Pathak, Committee Officer

2. At the outset, the Chairman welcomed the representatives of the Ministry of Personnel, Public Grievances and Pensions and of the Legislative Department and Department of Legal Affairs, Ministry of Law and Justice to the meeting.

3. The Secretary, Ministry of Personnel, Public Grievances and Pensions while deposing on the Right to Information Bill, 2004, clarified that with regard to Cabinet papers, the material on the basis of which the decision was taken was included within the purview of the Bill. He suggested that the term of office of the Information Commissioner and the Deputy Information Commissioner should be stipulated as five years. He deposed that if there was ingress in the information regarding the functioning of security forces on the ground of human rights violation, every single information should be exposed for that reason alone.

4. The Secretary, Legislative Department assured the Committee that clause 8 of the Bill would be redrafted as per the suggestions made by the Committee. He apprised the Committee that though the Chief Information Commissioner and other Information Commissioners were under the administrative control of the Ministry of Personnel, Public Grievances and Pensions, they would function autonomously.

5. The witnesses responded to the queries raised by the Committee.

(The witnesses then withdrew)

6. A verbatim record of the proceedings of the meeting was kept.
7. The Committee adjourned at 6.18 P.M.

XXVII
TWENTY-SEVENTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 4.00 P.M. on Wednesday, the 16TH March, 2005, in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri E.M. Sudarsana Natchiappan — *Chairman*

RAJYA SABHA

2. Dr. Radhakant Nayak
3. Shri Balavant *alias* Bal Apte
4. Shri Ram Nath Kovind
5. Shri Ram Jethmalani
6. Dr. P.C. Alexander

LOK SABHA

7. Dr. Shafiqurrahman Barq
8. Shri Chhatar Singh Darbar
9. Justice (Retd.) N.Y. Hanumanthappa
10. Shri Shailendra Kumar
11. Shri Bhupendrasinh Solanki
12. Shri S.K. Kharventhan
13. Shri Shriniwas D. Patil
14. Shri A.K. Moorthy

WITNESSES

I. Representatives of the Legislative Department, Ministry of Law and Justice

1. Shri T.K. Viswanathan, Secretary
2. Shri Z.S. Negi, Additional Secretary
3. Shri N.L. Meena, Joint Secretary
4. Shri N.K. Nampoothry Joint Secretary

II. Representatives of the Department of Legal Affairs, Ministry of Law and Justice

1. Shri R.L. Meena, Secretary
2. Shri R.L. Koli, Joint Secretary

III. Representative of Ministry of Personnel, Public Grievances and Pensions

Shri R. Ramanujam, Joint Secretary

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri Surinder Kumar Watts, Deputy Secretary
Shri H.C. Sethi, Under Secretary
Shri Vinoy Kumar Pathak, Committee Officer

2. The Committee first took up the consideration of the draft Report on the Right to Information Bill, 2004 and after some discussions adopted the Report.

3. * * *

4. A verbatim record of the proceedings of the meeting was kept.

5. The Committee adjourned at 5.00 P.M.

ANNEXURE

Bill No. 107 of 2004

THE RIGHT TO INFORMATION BILL, 2004

A

BILL

to provide for setting out the practical regime of right to information for people to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth year of the Republic of India as follows:

CHAPTER-I

PRELIMINARY

	<p>1. (1) This Act may be called the Right to Information Act, 2004.</p> <p>(2) It extends to the whole of India except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on the one hundred and twentieth day of its enactment.</p> <p>2. In this Act, unless the context otherwise requires,-</p> <p>(a) “Commission” means the Central Information Commission constituted under section 12;</p> <p>(b) “competent authority” means -</p> <p>(i) the Speaker in the case of the House of the People or the Legislative Assembly of a Union territory and the Chairman in the case of the Council of States;</p> <p>(ii) the Chief Justice of India in the case of the Supreme Court;</p> <p>(iii) the Chief Justice of the High Court of Delhi in the case of the High Court of Delhi;</p> <p>(iv) the President in the case of other authorities created by or under the Constitution;</p>	<p>Short title, extent and commencement.</p> <p>Definitions.</p>
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(v) the administrator appointed under article 239 of the Constitution;

(c) "Government", in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled by the Central Government or a Union territory administration, means the Central Government;

(d) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(e) "Information Commissioner" and "Deputy Information Commissioners" mean the Information Commissioner and the Deputy Information Commissioners appointed under sub-section (3) of section 12;

(f) "prescribed" means prescribed by rules made under this Act by the Government or the competent authority, as the case may be;

(g) "public authority" means any authority or body established or constituted,-

(i) by or under the Constitution;

(ii) by any other law made by Parliament;

(iii) by notification issued or order made by the Government, and includes any other body owned or controlled by the Government;

(h) "Public Information Officer" means the Public Information Officer appointed under sub-section (1), and includes an Assistant Information Officer designated as such under sub-section (2), of section 5;

(i) "record" includes

(i) any document, manuscript and file;

(ii) any microfilm, microfiche and facsimile copy of a document;

(iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and

(iv) any other material produced by a computer or any other device;

(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-

(i) inspection of work, documents, records;

(ii) taking notes, extracts, or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print outs where such information is stored in a computer or in any other device;

(k) “third party” means a person other than the person making a request for information and includes a public authority.

CHAPTER II

RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

3. Subject to the provisions of this Act, all citizens shall have the right to information.

4. (1) Every public authority shall-

(a) maintain all its records duly catalogued and indexed in a manner and form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

(b) publish before the commencement of this Act,-

(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 are open to the

Right to information.

Obligations of public authorities.

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;

and thereafter update these publications within such intervals in each year as may be prescribed;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi judicial decisions to affected persons;

(e) 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.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information *suo motu* 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.

(3) For the purpose of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible and comprehensible to the public.

(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 free or at such cost of the medium or the print cost price as may be prescribed.

Explanation:- For the purposes of sub-sections (3) and (4), “disseminated” means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

5. (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as Public Information Officers in all administrative units or officers under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as an Assistant Public Information Officer to receive the applications for information or appeals under this Act for forwarding the same forthwith to it or to the Government:

Provided that where an application for information or appeal is given to an Assistant Public Information Officer, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

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

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

(5) Any officer whose assistance has been sought under sub-section (4), shall render all assistance to the Public Information Officer seeking his or her assistance and for the purposes of any contravention of the provisions of this Act such other officer shall be treated as a Public Information Officer.

6. (1) A person who desires to obtain any information under this Act shall make a request in writing or through electronic means in English or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—

- (a) the Public Information Officer of the concerned public authority;
- (b) the Assistant Public Information Officers, specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Public Information Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

Designation of Public Information Officers.

Request for obtaining information.

	<p>(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.</p> <p>(3) Where an application is made to a public authority requesting for an information,-</p> <p>(i) which is held by another public authority; or</p> <p>(ii) the subject matter of which is more closely connected with the functions of another public authority,</p> <p>the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:</p> <p>Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.</p> <p>7. (1) Subject the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Public Information Officer on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:</p> <p>Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.</p> <p>(2) If the Public Information Officer fails to give decision on the request for information within the period specified under sub-section (1), the Public Information Officer shall be deemed to have refused the request.</p> <p>(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving—</p> <p>(a) the details of further fees representing the cost of providing the information as determined by him, togetherwith the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;</p> <p>(b) 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.</p> <p>(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be</p>	<p>Disposal of request.</p>
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	<p>provided is sensorily disabled, the public authority shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.</p> <p>(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to sub-section (6), pay such fee as may be prescribed.</p> <p>(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).</p> <p>(7) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.</p> <p>(8) Where a request has been deemed to be rejected under sub-section (2), the Public Information Officer shall communicate to the person making the request,—</p> <p>(i) the reasons for such rejection;</p> <p>(ii) the period within which an appeal against such rejection may be preferred; and</p> <p>(iii) the particulars of the appellate authority.</p> <p>(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.</p> <p>8. (1) Notwithstanding anything contained in this Act, except as otherwise provided herein, the following information shall be exempted from disclosure, namely:—</p> <p>(a) information, the disclosure of which would,—</p> <p>(i) prejudicially affect the sovereignty and integrity of India, security, strategic, scientific or economic interest of the State, relation with foreign State; or</p> <p>(ii) lead to an incitement to commit an offence;</p> <p>(b) information, which has been expressly forbidden to be disclosed by any court of law or tribunal or the disclosure of which may constitute contempt of court;</p> <p>(c) information, the disclosure of which may result in a breach of privileges of Parliament or the Legislature of a State;</p> <p>(d) information, including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third Party:</p> <p>Provided that such information may be disclosed, if the Public Information Officer is satisfied that a larger public interest warrants the disclosure of such information;</p> <p>(e) information available to a person in his fiduciary</p>	<p>Exemption from disclosure of information.</p>
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relationship:

Provided that such information may be disclosed, if the Public Information Officer is satisfied that a larger public interest warrants the disclosure of such information;

(f) information received in confidence from a foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or cause to identify the source of information or assistance given in confidence of law enforcement or security purposes;

(h) information, the disclosure of which would impede the process of investigation or apprehension or prosecution of offenders;

(i) the Cabinet papers, including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of the Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken, shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions listed in this section shall not be disclosed;

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

Provided that such information may be disclosed, if the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.

(2) Information which cannot be denied to Parliament or Legislature of a State, as the case may be, shall not be denied to any person.

(3) A public authority may, notwithstanding the exemptions specified in sub-section (1), allow access to information if public interest in disclosure of the information outweighs the harm to the public authority.

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

Provided that where any question arises to the date from which the said period of ten years has to be computed, the decision of the

	<p>Central Government shall be final.</p> <p>9. Without prejudice to the provisions of section 8, a Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.</p> <p>10. (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.</p> <p>(2) Where access is granted to a part of the record under sub-section (1), the Public Information Officer shall give a notice to the applicant, informing,—</p> <p>(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;</p> <p>(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;</p> <p>(c) the name and designation of the person giving the decision;</p> <p>(d) the details of the fees determined by him or her and the amount of fee which the applicant is required to deposit; and</p> <p>(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.</p> <p>11. (1) Where a public authority intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:</p> <p>Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.</p> <p>(2) Where a notice is served by the Public Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from</p>	<p>Grounds for rejection to access in certain cases.</p> <p>Severability.</p> <p>Third party information.</p>
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the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Public Information Officer shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 15 against the decision.

CHAPTER III

THE CENTRAL INFORMATION COMMISSION

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

(2) **The Commission shall consist of—**

(a) **the Information Commissioner; and**

(b) **such number of Deputy Information Commissioners not exceeding ten as may be deemed necessary.**

(3) The Information Commissioner and the Deputy Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of-

(i) the Prime Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Lok Sabha; and

(iii) the Chief Justice of India.

Explanation.— For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of the Opposition.

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

(5) The Information Commissioner and the Deputy Information Commissioners shall be persons of eminence in public life with wide knowledge and experience of administration and governance.

(6) The information Commissioner or a Deputy Information

Constitution of Central Information Commission.

	<p>Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.</p> <p>(7) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.</p> <p>(8) Every Deputy Information Commissioner shall perform his functions within such area as may be specified by the Central Government.</p> <p>13. (1) The Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:</p> <p>Provided that the Central Government may extend the term of five years by one more year if recommended by the committee referred to in sub-section (3) of section 12:</p> <p>Provided further that no Information Commissioner shall hold office as such after he has attained the age of sixty-five years.</p> <p>(2) Every Deputy Information Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:</p> <p>Provided that every Deputy Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the Information Commissioner in the manner specified in sub-section (3) of section 12:</p> <p>Provided further that where the Deputy Information Commissioner is appointed as the Information Commissioner, his term of office shall not be more than five years in aggregate as the Deputy Information Commissioner and the Information Commissioner.</p> <p>(3) The Information Commissioner or a Deputy Information Commissioner, shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.</p> <p>(4) The information Commissioner or a Deputy information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:</p> <p>Provided that the Information Commissioner or a Deputy Information Commissioner may be removed in the manner specified under section 14.</p> <p>(5) The Information Commissioner or a Deputy Information Commissioner shall, on cessation of his office, not be eligible for-</p> <p>(a) any diplomatic assignment, assignment as administrator of a Union territory or such other assignment or appointment which is required by law to be made by the President by warrant under his</p>	<p>Term of office and conditions of service.</p>
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	<p>hand and seal;</p> <p>(b) further employment to any office of profit under the Government of India or the Government of a State.</p> <p>(6) The salaries and allowances payable to and other terms and conditions of service of—</p> <p>(a) the information Commissioner shall be the same as that of a Secretary to the Government of India;</p> <p>(b) the Deputy Information Commissioner shall be the same as that of a Joint Secretary or an Additional Secretary to the Government of India:</p> <p>Provided that if the Information Commissioner or a Deputy Information Commissioner, at the time of his appointment is, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Information Commissioner or a Deputy Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:</p> <p>Provided further that if the Information Commissioner or a Deputy Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Information Commissioner or the Deputy Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:</p> <p>Provided also that the salaries, allowances and the other conditions of service of the Information Commissioner and the Deputy Information Commissioners shall not be varied to their disadvantage after their appointment.</p> <p>(7) The Central Government shall provide the Information Commissioner and the Deputy Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the other terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.</p> <p>14. (1) Subject to the provisions of sub-section (3), the information Commissioner or any Deputy Information Commissioner shall be removed from his office only by order of the president on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Information Commissioner. Commissioner or any</p>	<p>Removal of Information Commissioner or Deputy Information Commissioner.</p>
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	<p>Deputy Information Commissioner, as the case may be, ought on such ground be removed.</p> <p>(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Information Commissioner or Deputy Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.</p> <p>(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Information Commissioner or any Deputy Information Commissioner if the Information Commissioner or a Deputy Information Commissioner, as the case may be,-</p> <p>(a) is adjudged an insolvent; or</p> <p>(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or</p> <p>(c) engages during his term of office in any paid employment outside the duties of his office; or</p> <p>(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or</p> <p>(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as an Information Commissioner or a Deputy Information Commissioner.</p> <p>(4) If the Information Commissioner or any Deputy Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.</p> <p>15. (1) Subject to the provisions of this Act, it shall be the duty of the Commission to receive and inquire into a complaint from any person,—</p> <p>(a) who has been unable to submit a request to a Public Information Officer, either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for forwarding the same to the public authority or the Government;</p> <p>(b) who has been refused access to any information requested under this Act;</p> <p>(c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;</p>	<p>Powers and functions of Commission.</p>
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<p>5 of 1908.</p>	<p>(d) who has been required to pay an amount of fee which he or she considers unreasonable;</p> <p>(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and</p> <p>(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.</p> <p>(2) Where the Commission is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.</p> <p>(3) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-</p> <p>(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;</p> <p>(b) requiring the discovery and inspection of documents;</p> <p>(c) receiving evidence on affidavit;</p> <p>(d) requisitioning any public record or copies thereof from any court or office;</p> <p>(e) issuing summons for examination of witnesses or documents; and</p> <p>(f) any other matter which may be prescribed.</p> <p>(4) Notwithstanding anything inconsistent contained in any other Act of Parliament, the Commission may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.</p> <p>16. (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Public Information Officer, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Public Information Officer in each public authority:</p> <p>Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p> <p>(2) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Commission:</p> <p>Provided that the Commission may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant</p>	<p>Appeal.</p>
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was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred against an order made by the Public Information Officer under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(4) If the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Commission shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the public authority which denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Commission shall be binding.

(8) In its decision, the Commission has the power to;

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Public Information Officer;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Commission shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Commission shall decide the appeal. in accordance with such procedure as may be prescribed.

(11) An appeal against the decision of the Commission shall lie in the High Court on any point of fact and law.

<p>19 of 1923.</p>	<p>17. (1) Notwithstanding anything contained in section 20, where the Commission at the time of deciding any appeal is of the opinion that the Public Information Officer has persistently failed to provide information without any reasonable cause within the period specified under sub-section (1) of section 7, the Commission may authorise any officer of the Central Government to file a complaint against such Public Information Officer before a Judicial Magistrate of First Class.</p> <p>(2) Any Public Information Officer who is in default under sub-section (1) shall be liable on conviction to fine which may extend to rupees twenty-five thousand or a term of imprisonment which may extend to five years, or with both.</p> <p style="text-align: center;">CHAPTER IV MISCELLANEOUS</p> <p>18. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.</p> <p>19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p> <p>20. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.</p> <p>21. (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:</p> <p>Provided that the information pertaining to the allegations of corruption shall not be excluded under this sub-section.</p> <p>(2) The Central Government may by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.</p> <p>(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.</p> <p>22. (1) The Commission shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the Central Government.</p> <p>(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such</p>	<p>Penalties.</p> <p>Protection of action taken in good faith.</p> <p>Act to have overriding effect.</p> <p>Bar of Jurisdiction of courts.</p> <p>Act not to apply to certain organisations.</p> <p>Monitoring and reporting.</p>
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	<p>information to the Commission as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.</p> <p>(3) Each report shall state in respect of the year to which the report relates,-</p> <p>(a) the number of requests made to each public authority;</p> <p>(b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;</p> <p>(c) the number of appeals referred to the Commission for review, the nature of the appeals and the outcome of the appeals;</p> <p>(d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;</p> <p>(e) the amount of charges collected by each public authority under this Act;</p> <p>(f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;</p> <p>(g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.</p> <p>(4) The Central Government may, as soon as practicable after the end of each year, cause a copy of the report of the Commission referred to sub-section (1) to be laid before each House of Parliament.</p> <p>(5) If it appears to the Commission that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.</p> <p>23. (1) The Central Government may, to the extent of availability of financial and other resources,-</p> <p>(a) develop and organise educational programmes to advance the understanding programmes. of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;</p> <p>(b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;</p> <p>(c) promote timely and effective dissemination of accurate Information by public authorities about their activities; and</p>	<p>Central Government to prepare programmes.</p>
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	<p>(d) train Information Officers of public authorities and produce relevant training materials for use by the public authorities themselves.</p> <p>(2) The Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.</p> <p>(3) The Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include-</p> <p>(a) the objects of this Act;</p> <p>(b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Public Information Officer of every public authority appointed under sub-section (1) of section 5;</p> <p>(c) the manner and the form in which request for access to an information shall be made to a public authority;</p> <p>(d) the assistance available from and the duties of the Public Information Officers of a public authority under this Act;</p> <p>(e) the assistance available from the Commission;</p> <p>(f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;</p> <p>(g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;</p> <p>(h) the notices regarding fees to be paid in relation to requests for access to an information; and</p> <p>(i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.</p> <p>(4) The Government must, if necessary, update and publish the guidelines at regular intervals.</p> <p>24. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) intervals at which matters referred to in sub-clauses (i) to (xvii) of clause (b) of sub-section (1) of section 4 shall be published;</p> <p>(b) the cost of the medium or print cost price of the materials to</p>	<p>Power to make rules by Central Government.</p>
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	<p>be disseminated under sub-section (4) of section 4;</p> <p>(c) the fee payable under sub-section (1) of section 6;</p> <p>(d) the fee payable under sub-sections (1) and (5) of section 7;</p> <p>(e) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (7) of section 13;</p> <p>(f) the procedure to be adopted by the Commission in deciding the appeals under sub-section (10) of section 16; and</p> <p>(g) any other matter which is required to be, or may be, prescribed.</p> <p>25. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(i) intervals at which matters referred to in sub-clauses (i) to (xvii) of clause (b) of sub-section (1) of section 4 shall be published;</p> <p>(ii) the cost of the medium or point cost price of the materials to be disseminated under sub-section (4) of section 4;</p> <p>(iii) the fee payable under sub-section (1) of section 6;</p> <p>(iv) the fee payable under sub-section (1) of section 7; and</p> <p>(v) any other matter which is required to be, or may be, prescribed.</p> <p>26. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised of one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> <p>27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.</p> <p>(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.</p>	<p>Power to make rules by competent authority.</p> <p>Laying of rules.</p> <p>Power to remove difficulties.</p>
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5 of 2003.	28. The Freedom of Information Act, 2002 is hereby repealed.	Repeal.
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THE FIRST SCHEDULE
[See sub-section (3) of section 13]

Form of oath or affirmation to be made by the Information Commissioner or the
Deputy Information Commissioner

“I,, having been appointed Information Commissioner/Deputy information Commissioner swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”

THE SECOND SCHEDULE

(See section 21)

INTELLIGENCE AND SECURITY ORGANISATION ESTABLISHED BY THE CENTRAL GOVERNMENT

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.- CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

STATEMENT OF OBJECTS AND REASONS

In order to ensure greater and more effective access to information, the Government resolved that the Freedom of Information Act, 2002 enacted by the Parliament needs to be made more progressive, participatory and meaningful. The National Advisory Council deliberated on the issue and suggested certain important changes to be incorporated in the existing Act to ensure smoother and greater access to information. The Government examined the suggestions made by the National Advisory Council and others and decided to make a number of changes in the law.

The important changes proposed to be incorporated, *inter alia*, include establishment of an appellate machinery with investigating powers to review decisions of the Public Information Officers; penal provisions for failure to provide information as per law; provisions to ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions, and effective mechanism for access to information and disclosure by authorities, etc. In view of significant changes proposed in the existing Act, the Government also decided to repeal the Freedom of Information Act, 2002. The proposed legislation will provide an effective framework for effectuating the right of information recognized under Article 19 of the Constitution of India.

The Bill seeks to achieve the above objects.

NEW DELHI;
The 18th December, 2004

SURESH PACHOURI

NOTES ON CLAUSES

Clause 1 deals with the short title, extent and the commencement of the legislation. The legislation will come into force on the one hundred and twentieth day of its assent by the President.

Clause 2 defines various words and expressions used in the Bill.

Clause 3 seeks to confer on the citizens a right of access to information held by public authorities.

Clause 4 seeks to entrust a duty on every public authority to maintain records and publish manuals, rules, regulations, instructions, etc. in its possession.

Clause 5 provides for designation of Public Information Officers and Assistant Public Information Officers.

Clause 6 specifies the manner in which requests may be made by a citizen to the authority for obtaining the information. It also provides for transferring the request to the other concerned public authority who may hold the information.

Clause 7 lays down specific time limit within which a public authority shall provide information and the fees to be paid for processing the request and for providing the information.

Clause 8 deals with various categories of information which shall be exempted from disclosure.

Clause 9 empowers the Public Information Officer to reject a request for information where an infringement of a copyright subsisting in a person would be involved.

Clause 10 enables the public authority to sever and provide partial information which falls partly under the exempted categories and partly under the non-exempted categories.

Clause 11 provides for consultation with the third party where the request relates to or has been supplied by a third party and has been treated as confidential by that party.

Clauses 12 to 15 provides for constitution of Central Information Commission, the terms and conditions of service and the powers of the Information Commissioners and the Deputy Information Commissioners.

Clause 16 seeks to provide for first and second appeals, the first appeal lies with the officer senior in rank to the Public Information Officer and the second appeal may be made to the Commission.

Clause 17 provides for imposition of penalty on a Public Information Officer for persistently failing to provide information without any reasonable cause within the specified period. The Commission may authorise any officer of the Central Government to file a complaint against such Public Information Officer before a Judicial Magistrate and on conviction, a penalty upto rupees twenty five thousand, or an imprisonment upto five years, or both, may be imposed.

Clause 18 bars the institution of legal proceedings against any person for things done in good faith under the Act.

Clause 19 seeks to make the legislation overriding in character so that the scheme is not subverted through the operation of other enactment.

Clause 20 seeks to bar the jurisdiction of the subordinate courts.

Clause 21 seeks to exempt certain intelligence and security organisations from the purview of the legislation but information pertaining to allegation of corruption, shall, without prejudice to the exemption, be provided.

Clause 22 provides for preparation of an annual report by the Commission and laying of such report by the Central Government before each House of Parliament.

Clause 23 seeks to cast an obligation on the Central Government to develop and promote schemes for advancement of the information regime.

Clause 24 seeks to empower the Central Government to make rules so as to carry out the provisions of the legislation.

Clause 25 seeks to empower the competent authority to make rules so as to carry out the provisions of the legislation.

Clause 26 seeks to require the Central Government to lay the rules before each House of Parliament.

Clause 27 empowers the Central Government to remove difficulties in giving effect to the provisions of the legislation within a period of two years from the commencement of the legislation.

Clause 28 seeks to repeal the Freedom of Information Act, 2002.

FINANCIAL MEMORANDUM

1. Sub-clauses (1) and (2) of clause 12 provide for constituting the Central Information Commission which shall consist of a Information Commissioner and such number of Deputy Information Commissioners, not exceeding ten, as may be deemed necessary.
2. Sub-clause (7) of clause 13 provides for appointment of officers and employees for assisting the Information Commissioner and the Deputy Information Commissioners as may be necessary for the efficient performance of their functions under the Act.
3. An estimated recurring expenditure of rupees one crore eighty-six lakhs is likely to be incurred on the salaries of the Information Commissioner, Deputy Information Commissioners and other officers and employees of the Commission.
4. At this stage, it is not possible to give precise details of the expenditure to be incurred on material resources in terms of office accommodation, vehicles, telephones and other office equipments required by the Commission. Adequate provisions will have to be made in the annual grants of the Commission to meet this expenditure.
5. The Bill does not involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 21 of the Bill empowers the Central Government, by notification in the Official Gazette, to amend the Schedule for including any other intelligence or security organisation established by the Central Government or omit therefrom any organisation already specified therein.

Clause 24 of the Bill empowers the Central Government to make rules to carry out the provisions of the Act. Sub-clause (2) of that clause enumerates the matter with respect to which rules may be made under this clause.

These matters relate to, *inter alia*, the publishing of particulars of public authority, functions and duties of its officers, details of facilities available to citizens for obtaining information, fee payable to obtain an information from a public authority, salaries and allowances payable to and the terms and conditions of service of the officers and other employees, procedure for disposal of appeals and the authority before whom an appeal may be preferred against the decision of Public Information Officer.

Clause 25 of the Bill empowers the competent authority to make rules to carry out the provisions of the Act. These matters relate to, *inter alia*, the fee payable for obtaining the information from the Public Information Officer of a public authority; the appellate authority before whom an appeal may be preferred against the decision of the Public Information Officer and the procedure to be adopted by the Commission in deciding the appeals.

Clause 27 of the Bill empowers the Central Government by order to remove certain difficulties which may appear to it to be necessary or expedient in giving effect to the provisions of the Act within a period of two years from the commencement of the Act.

The matters in respect of which rules and the order may be made are matters of administrative details and procedure and, it is not practicable to make provisions for them in the Bill. The delegation of legislative power is, therefore, of a normal character.

**COMPARATIVE TABLE OF THE PROVISIONS IN THE
FREEDOM OF INFORMATION ACT, 2002 /NAC's RIGHT TO INFORMATION
BILL, 2004 RIGHT TO INFORMATION BILL, 2004 AS INTRODUCED IN LOK SABHA**

1	2	3	4
SI.No.	FREEDOM OF INFORMATION ACT, 2002	NAC's RIGHT TO INFORMATION BILL, 2004 PREAMBLE	RIGHT TO INFORMATION BILL, 2004 AS INTRODUCED IN LOK SABHA PREAMBLE
1	PREAMBLE	PREAMBLE	PREAMBLE
	An Act to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto.	A Bill to operationalise the right to information by setting out the practical regime for people to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability and in relation to matters connected therewith or incidental thereto.	A Bill to provide for setting out the practical regime of right to information for people to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and for matters connected therewith or incidental thereto.
	CHAPTER 1: PRELIMINARY	CHAPTER 1: PRELIMINARY	CHAPTER 1: PRELIMINARY
1.	1. (1) This Act may be called the Freedom of Information Act, 2002	1. (1) This Act may be called the Right to Information Act, 2004	1. (1) This Act may be called the Right to Information Act, 2004.
2.	1. (2) It extends to the whole of India except the State of Jammu and Kashmir.	1. (2) It extends to the whole of India except the State of Jammu and Kashmir.	1. (2) It extends to the whole of India except the State of Jammu and Kashmir.
3.	1. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint	1. (3) It shall come into force within 120 days of it being enacted.	1. (3) It shall come into force on the one hundred and twentieth day of its enactment.
4.	Does not exist in the present Act.	1. (4) Where State legislation exists dealing with the right to access information, a person will have the right to seek information under the State law as well as under this Act, if the information pertains to a subject under the State List in Schedule 7 of the Constitution of India.	
5.	Does not exist in the present Act.	1. (5) Objectives of the Act: The objectives of the Act are to	

<p>6. 2. In this Act, unless the context otherwise requires:</p> <p>(a) “appropriate Government” means in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled-</p> <p>(i) by the Central Government, the Central Government;</p> <p>(ii) by the State Government, the State Government;</p> <p>(iii) by the Union territory, the Central</p>	<p>(i) give effect to the Fundamental Right to Information, which will contribute to strengthening democracy, improving governance, increasing public participation, promoting transparency and accountability in Union, State and Local Self Government Institutions.</p> <p>(ii) 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 in a swift, effective, inexpensive and reasonable manner.</p> <p>(iii) promote transparency, accountability and effective governance of all public authorities by, including but not limited to, empowering and educating all persons to:</p> <ul style="list-style-type: none"> - understand their rights in terms of this Act in order to exercise their rights in relation to public authorities; - understand the functions and operation of public authorities; and - effectively participating in decision making by public authorities that affects their rights. <p>2. In this Act, unless the context otherwise requires:</p> <p>(a) “appropriate Government” means in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled—</p> <p>(i) by the Union Government, the Union Government;</p> <p>(ii) by the State Government, the State Government;</p> <p>(iii) by the Union Territory, the Union Government;</p>	<p>2. In this Act, unless the context otherwise requires,</p> <p>(c) “Government”, in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled by the Central Government or a Union territory administration, means the Central Government;</p>
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<p>Government;</p> <p>7. (b) “competent authority” means-</p> <p>(i) the Speaker in the case of the House of the People or the Legislative Assembly and the Chairman in the case of the Council of States or the Legislative Council;</p> <p>(ii) the Chief Justice of India in the case of the Supreme Court;</p> <p>(iii) the Chief Justice of the High Court in the case of a High Court;</p> <p>(iv) the President or the Governor, as the case may be, in case of other authorities created by or under the Constitution;</p> <p>(v) the administrator appointed under article 239 of the Constitution;</p> <p>8. (c) “freedom of information” means the right to obtain information from any public authority by means of –</p> <p>(i) inspection, taking of extracts and notes;</p> <p>(ii) certified copies of any records of such public authority;</p> <p>(iii) diskettes, floppies or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;</p> <p>9. Does not exist in the present Act.</p>	<p>(b) “competent authority” means-</p> <p>(i) the Speaker in the case of the House of the People or the Legislative Assembly and the Chairman in the case of the Council of States or the Legislative Council;</p> <p>(ii) The Chief Justice of India in the case of the Supreme Court;</p> <p>(iii) The Chief Justice of the High Court in the case of a High Court;</p> <p>(iv) The President or the Governor, as the case may be, in case of other authorities created by or under the Constitution;</p> <p>(v) the administrator appointed under article 239 of the Constitution;</p> <p>(d) “right to information” means the right to access information held by, legally accessible by or under the control of any public authority and includes –</p> <p>(i) Inspection of works, documents, records;</p> <p>(ii) Taking notes and extracts and obtaining certified copies of documents or records;</p> <p>(iii) Taking certified samples of material;</p> <p>(iv) Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;</p> <p>(c) “Chief Information Commissioner”, “Information Commissioner” and “State Information Commissioner” means the authorities so appointed under this Act.</p>	<p>(b) “competent authority” means-</p> <p>(i) the Speaker in the case of the House of the People or the Legislative Assembly of a Union territory and the Chairman in the case of the Council of States;</p> <p>(ii) the Chief Justice of India in the case of the Supreme Court;</p> <p>(iii) the Chief Justice of the High Court of Delhi;</p> <p>(iv) the President in the case of other authorities created by or under the Constitution;</p> <p>(v) the administrator appointed under article 239 of the Constitution;</p> <p>(j) “right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-</p> <p>(i) inspection of work, documents, records;</p> <p>(ii) taking notes, extracts, or certified copies of documents or records;</p> <p>(iii) taking certified samples of material;</p> <p>(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;</p> <p>(a) “Commission” means the Central Information Commission constituted under section 12;</p> <p>(e) “Information Commissioner” and “Deputy</p>
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<p>10. (d) “information” means any material in any form relating to the administration, operations or decisions of a public authority;</p> <p>11. (e) “prescribed” means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;</p> <p>12. (f) “public authority” means any authority or body established or constituted,- (i) by or under the Constitution; (ii) by any law made by the appropriate Government, and includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government;</p> <p>13. (g) “Public Information Officer” means the Public Information Officer appointed under sub-section (1) of section 5;</p> <p>14. (h) “record” includes-</p>	<p>(e) “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;</p> <p>f) “prescribed” means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;</p> <p>g) “public authority” means any authority or body established or constituted,- (i) by or under the Constitution; (ii) by any law made by the appropriate Government, and includes any other body owned or controlled by the appropriate Government and includes panchayati raj institutions and other community bodies, like district councils, and village or locality durbars, performing public functions in areas notified under schedule 5 and 6 of the Constitution.</p> <p>h)“Public Information Officer” means the Public Information Officer appointed under sub-section (1), and/or (1)(a) of section 5;</p> <p>(i) “record” includes</p>	<p>Information Commissioners” mean the Information Commissioner and the Deputy Information Commissioners appointed under sub-section (3) of section 12;</p> <p>(d) “information” means any material in any form, including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;</p> <p>f) “prescribed” means prescribed by rules made under this Act by the Government or the competent authority, as the case may be;</p> <p>g) “public authority” means any authority or body established or constituted,- (i) by or under the Constitution; (ii) by any other law made by Parliament; (iii) by notification issued or order made by the Government; and includes any other body owned or controlled by the Government;</p> <p>h)“Public Information Officer” means the Public Information Officer appointed under sub-section (1), and includes an Assistant Public Information Officer designated as such under sub-section (2), of section 5;</p> <p>(i) “record” includes-</p>
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<p>(i) any document, manuscript and file; (ii) any microfilm, microfiche and facsimile copy of a document; (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and (iv) any other material produced by a computer or by any other device;</p> <p>15. (i) “third party” means a person other than the person making a request for information and includes a public authority.</p> <p style="text-align: center;">CHAPTER II FREEDOM OF INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES</p> <p>16. 3. Subject to the provision of this Act, all citizens shall have freedom of information.</p> <p>17. 4. Every public authority shall-</p> <p>(a) maintain all its records, in such manner and form as is consistent with its operational requirements duly catalogued and indexed;</p> <p>18. (b) publish at such intervals as may be prescribed by the appropriate Government or competent authority,- (i) the particulars of its organisation,</p>	<p>(i) any document, manuscript and file; (ii) any microfilm, microfiche and facsimile copy of a document; (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and (iv) any other material produced by a computer or by any other device;</p> <p>(j) “third party” means a person other than the person making a request for information and includes a public authority.</p> <p style="text-align: center;">CHAPTER II FREEDOM OF INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES</p> <p>3. Subject to the provisions of this Act, all citizens shall have the right to information.</p> <p>4. Every public authority shall-</p> <p>(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information as provided for in this Act, including ensuring that all records, covered by the Act that are appropriate to computerised are within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that authorised access to such records is facilitated;</p> <p>(b) publish within 6 months of this Act coming into force and thereafter update at least every 12 months-</p> <p>(i) the particulars of its organisation, functions and duties; (ii) the powers and duties of its officers and employees</p>	<p>(i) any document, manuscript and file; (ii) any microfilm, microfiche and facsimile copy of a document; (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and (iv) any other material produced by a computer or any other device;</p> <p>(k) “third party” means a person other than the person making a request for information and includes a public authority.</p> <p style="text-align: center;">CHAPTER II RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES</p> <p>3. Subject to the provisions of this Act, all citizens shall have the right to information.</p> <p>4. (1) Every public authority shall-</p> <p>(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated;</p> <p>(b) publish before the commencement of this Act,- (i) the particulars of its organisation, functions and duties; (ii) the powers and duties of its officers and</p>
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<p>functions and duties;</p> <p>(ii) the powers and duties of its officers and employees and the procedure followed by them in the decision making process;</p> <p>(iii) the norms set by the public authority for the discharge of its functions;</p> <p>(iv) rules, regulations, instructions, manuals and other categories of records under its control used by its employees for discharging its functions;</p> <p>(v) the details of facilities available to citizens for obtaining information; and</p> <p>(vi) the name, designation and other particulars of the Public Information Officer;</p>	<p>(iii) Procedures followed during the decision making process, including chains of supervision and accountability.</p> <p>(iv) The norms set by the public authority for the discharge of its functions.</p> <p>(v) Rules, regulations, instructions, manual and records held by or under its control used by its employees for discharging its functions.</p> <p>(vi) A statement of the categories of documents that are held by or under the control of the public authority.</p> <p>(vii) Particulars of any arrangement that exists for consultation with, or representation by, members of the public in relation to the formulation of policy in, or in the administration of, the public authority.</p> <p>(viii) A statement listing all boards, councils, committees and other bodies constituted by two or more persons, that are part of, or that have been established for the purpose of advising, the public authority, and whose meetings are open to the public, or the minutes of whose meetings are available for public inspection;</p> <p>(ix) A directory of their public servants, from the level of the head of the department or his/her equivalent and below;</p> <p>(x) The monthly remuneration received for each position, including the system of compensation as established in regulations;</p> <p>(xi) Information concerning the budget assigned to each agency, including all plans, proposed expenditures and reports on disbursement;</p> <p>(xii) The design and execution of subsidy programs, including the amounts allocated to them, criteria for access, implementation details and beneficiaries;</p> <p>(xiii) All concessions, permits or authorisations granted, with their recipients specified;</p>	<p>employees;</p> <p>(iii) the procedure followed in the decision making process, including channels of supervision and accountability ;</p> <p>(iv) the norms set by it for the discharge of its functions;</p> <p>(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;</p> <p>(vi) a statement of the categories of documents that are held by it or under its control;</p> <p>(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;</p> <p>(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 are open to the public, or the minutes of such meetings are accessible for public;</p> <p>(ix) a directory of its officers and employees;</p> <p>(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;</p> <p>(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;</p> <p>(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;</p>
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<p>19. (c) publish all relevant facts concerning important decisions and policies that affect the public while announcing such decisions and policies;</p> <p>20. (d) give reasons for its decisions, whether administrative or quasi judicial to those affected by such decisions;</p> <p>21. (e) before initiating any project, publish or communicate to the public generally or to the persons affected or likely to be affected by the project in particular, the facts available to it or to which it has reasonable</p>	<p>(xiv) All information available to the public authority in electronic form or capable of being reduced to electronic form which is not exempt under this Act, subject to availability of resources;</p> <p>(xv) the details of facilities available to citizens for obtaining information, including if the public authority maintains a library or reading room that is available for public use, a statement of that fact including details of the address and hours of opening of the library or reading room;</p> <p>(xvi) the name, designation and other particulars of the Public Information Officer; and</p> <p>(xvii) such other information as prescribed by the appropriate government or Information Commissioner from time to time which would promote transparency across public authorities or in specific public authorities, as appropriate;</p> <p>on the basis that it shall be a constant endeavour of public authorities to take steps to provide as much information to the public <i>suo moto</i> at regular intervals through various means of communication so that the public have minimum resort to the use of this Act to obtain information.</p> <p>(c) publish all relevant facts concerning important decisions and policies that affect the public while announcing such decisions and policies;</p> <p>(d) give reasons for its decisions, whether administrative or quasi-judicial to those affected by such decisions;</p> <p>(e) before initiating any project, publish or communicate to the public generally or to the persons affected or likely to be affected by the project 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 interests of natural</p>	<p>(xiii) particulars of concessions, permits or authorisations granted by it ;</p> <p>(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;</p> <p>(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;</p> <p>(xvi) the names, designations and other particulars of the Public Information Officers;</p> <p>(xvii) such other information as may be prescribed;</p> <p>and thereafter update these publications within such intervals in each year as may be prescribed.</p> <p>(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information <i>suo moto</i> 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.</p> <p>(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;</p> <p>(d) provide reasons for its administrative or quasi - judicial decisions to affected persons;</p> <p>(e) 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</p>
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<p>access which in its opinion should be known to them in the best interests of natural justice and promotion of democratic principles.</p>	<p>justice and promotion of democratic principles.</p>	<p>access which in its opinion should be known to them in the best interest of natural justice and promotion of democratic principles.</p>
<p>22. Does not exist in the present Act.</p>	<p>(f) For the purpose of this section, information should be disseminated widely and in a form and manner which is easily accessible and comprehensible to the public. “Disseminated” shall mean appropriately making known to the public the information to be communicated through notice boards, newspapers, public announcements, media broadcasts, the internet or other such means and shall include inspection at all of the bodies offices. All materials shall be disseminated keeping in mind cost effectiveness, the local language and the most effective method of communication in that local area. Such information should be easily accessible, with the Public Information Officer, where possible in electronic format, which shall be available free or at the cost of the medium, or in print at cost price.</p>	<p>(3) For the purpose of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible and comprehensible to the public.</p> <p>(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 free or at such cost of the medium or in print cost price as may be prescribed.</p> <p>Explanation.- For the purposes of sub-sections (3) and (4), “disseminated” means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.</p>
<p>23. 5. (1) Every public authority shall for the purposes of this Act, appoint one or more officers as Public Information Officers.</p>	<p>5. (1) Every public authority shall for the purposes of this Act, designate as many officers as Public Information officers, in all administrative units and offices under such authority, as are necessary to render the public body as accessible as reasonably possible for requesters of information, within one month of this Act coming into force.</p> <p>(a) An officer at each sub-divisional level or other appropriate sub-district level, shall be designated a Public Information Officer, within three months of this Act coming into force, for the purposes of this Act. He/she shall receive all requests for information, and appeals, both under the State and the Central Acts, and pass them on to a designated</p>	<p>5. (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as Public Information Officers in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.</p> <p>(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as an Assistant Public Information Officer to receive the applications for information or</p>

<p>24. (2) Every Public Information Officer shall deal with requests for information and shall render reasonable assistance to any person seeking such information.</p> <p>25. (3) The Public Information Officer may seek the assistance of any other officer as he considers necessary for the proper discharge of his duties.</p> <p>26. (4) Any officer whose assistance has been sought under sub-section (3), shall render all assistance to the Public Information Officer seeking his assistance.</p> <p>27. 6. A person desirous of obtaining information shall make a request in writing or through electronic means, to the concerned Public Information Officer specifying the particulars of the information sought by him:</p> <p>28. Provided that where such request cannot be made in writing the Public Information</p>	<p>authority for onward transmission to the relevant department/agency.</p> <p>(b) Where applications/appeals are handed over at the sub-divisional or sub-district level, an additional period of five days would be added to the time of response specified under this Act, in order to enable the request/appeal to be communicated to the relevant authority.</p> <p>(2) Every Public Information Officer shall deal with requests for information and shall render reasonable assistance to any person seeking such information.</p> <p>(3) The Public Information Officer may seek the assistance of any other officer as he considers necessary for the proper discharge of his duties.</p> <p>(4) Any officer whose assistance has been sought under sub-section (3), shall render all assistance to the Public Information Officer seeking his/her assistance and be treated as a Public Information Officer for the purposes of the penalty provision in this Act.</p> <p>6. (1) A person desirous of obtaining information shall make a request in writing or through electronic means in English or in the official language of the area in which the application is being submitted, to:</p> <p>(a) the Public Information Officer of the relevant public authority;</p> <p>(b) other designated Public Information Officers, as specified in 5 (1a) specifying the particulars of the information sought by him/her.</p> <p>Provided that where such request cannot be made in writing the Public Information Officer shall render all reasonable</p>	<p>appeals under this Act for forwarding the same forthwith to it or to the Government:</p> <p>Provided that where an application for information or appeal is given to an Assistant Public Information Officer, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.</p> <p>(2) Every Public Information Officer shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.</p> <p>(3) The Public Information Officer may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.</p> <p>(4) Any officer whose assistance has been sought under sub-section (4), shall render all assistance to the Public Information Officer seeking his or her assistance and for the purposes of any contravention of the provisions of this Act such other officer shall be treated as a Public Information Officer.</p> <p>6. (1) A person who desires to obtain any information under this Act shall make a request in writing or through electronic means in English or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to-</p> <p>(a) the Public Information Officer of the concerned public authority;</p> <p>(b) the Assistant Public Information Officers, specifying the particulars of the information sought by him or her:</p> <p>Provided that where such request cannot be made in writing, the Public Information Officer shall render</p>
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<p>Officer shall render all reasonable assistance to the person making the request orally to reduce it in writing.</p>	<p>assistance to the person making the request orally to reduce it in writing.</p>	<p>all reasonable assistance to the person making the request orally to reduce the same in writing.</p>
<p>29. Does not exist in present Act.</p>	<p>6 (2) An applicant for access to information shall not be required to give any reason for requesting access to that information or any other personal details except those necessary for contacting the applicant.</p>	<p>6(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.</p>
<p>30. Does not exist in present Act.</p>	<p>6 (3) (1) Where an application is made to a Public Authority for information:</p> <p>(a) which is held by another Public Authority; or</p> <p>(b) the subject matter of which is more closely connected with the functions of another Public Authority,</p> <p>the first mentioned Public Authority shall transfer the application or such part of it as may be appropriate to that other Public Authority and shall inform the applicant immediately of the transfer.</p> <p>(2) A transfer of an application pursuant to sub-section (1) shall be made as soon as practicable but not later than 5 days after the date of receipt of the application.</p>	<p>6(3) Where an application is made to a public authority requesting for an information,-</p> <p>(i) which is held by another public authority; or</p> <p>(ii) the subject matter of which is more closely connected with the functions of another public authority,</p> <p>the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:</p> <p>Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.</p>
<p>31. 7. (1) On receipt of a request under section 6, the Public Information Officer shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information requested on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:</p> <p>Provided that where the information sought for concerns the life and liberty of a person, the same should be provided within forty-</p>	<p>7(1) Subject to section 5, sub-section (1b) above and section 7, sub-section (3)(a) below, on receipt of a request under section 6, the Public Information Officer shall as expeditiously as possible and in any case within fifteen days of the receipt of the request, either provide the information requested on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:</p> <p>Provided that where the information sought for concerns the life and liberty of a person, the same should be provided</p>	<p>7. (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Public Information Officer on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:</p> <p>Provided that where the information sought for concerns the life or liberty of a person, the same</p>

<p>eight hours of the receipt of the request:</p> <p>32. Provided further that where it is decided to provide the information on payment of any further fee representing the cost of providing the information, he shall send an intimation to the person making the request, giving the details of the fees determined by him, requesting him to deposit the fees and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to above.</p> <p>33. Does not exist in the present Act.</p>	<p>within forty-eight hours of the receipt of the request:</p> <p>(2) If a Public Information Officer fails to give the decision on a request for access to the requestor concerned within the period contemplated in section 7(1), the Public Information Officer would, for the purposes of this Act, be regarded as having refused the request.</p> <p>7(3) Where it is decided to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving:</p> <p>(a) the details of such fees as determined by him, showing the calculations as per the Act, at prescribed rates, requesting him to deposit the fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of fifteen days referred to above;</p> <p>(b) information concerning his/her rights with respect to review the decision as to the amount of fees charged and/or the form of access provided, including the contact details of the appellate authority, time limits, process and any relevant forms.</p> <p>7 (4) Where access to a record or a part thereof is to be given under this Act and the person to whom access is to be given has a sensory disability, the public authority will provide assistance to enable access to the information, including providing assistance with inspection as appropriate.</p>	<p>shall be provided within forty-eight hours of the receipt of the request.</p> <p>(2) If the Public Information Officer fails to give decision on the request for information within the period specified under sub-section (1), the Public Information Officer shall be deemed to have refused the request.</p> <p>7(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving –</p> <p>–</p> <p>(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;</p> <p>(b) 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.</p> <p>7(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the public authority shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.</p>
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<p>34. Does not exist in the present Act.</p>	<p>7(5)(a) Subject to sub-sections (b) and (c) below, where access to information is to be given in the form of printed copies, or copies in some other form, such as on tape, disk, film or other material, the applicant shall pay the prescribed fee.</p> <p>(b) Any fees payable by the applicant shall be reasonable, and shall in no case exceed the actual cost of copying the information or in the case of samples of materials the cost of obtaining the sample, 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 this Act in practice.</p> <p>(c) Notwithstanding subsection (a), where a public authority fails to comply with the time limits specified in section 7, any access to information to which the applicant is entitled pursuant to his request shall be provided free of charge.</p>	<p>7(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed.</p> <p>(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).</p>
<p>35. 7 (2) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.</p>	<p>7 (6) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.</p>	<p>7(7) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.</p>
<p>36. 7 (3) Where a request is rejected under sub-section (2), the Public Information Officer shall communicate to the person making request,</p> <p>(i) the reasons for such rejection;</p> <p>(ii) the period within which an appeal against such rejections may be preferred;</p> <p>(iii) the particulars of the appellate authority.</p>	<p>7 (7) Where a request is rejected under sub-section (2), the Public Information Officer shall communicate to the person making request,</p> <p>(i) the reasons for such rejection;</p> <p>(ii) the period within which an appeal against such rejections may be preferred;</p> <p>(iii) the particulars of the appellate authority.</p>	<p>7(8) Where a request has been deemed to be rejected under sub-section (2), the Public Information Officer shall communicate to the person making the request,</p> <p>(i) the reasons for such rejection;</p> <p>(ii) the period within which an appeal against such rejection may be preferred; and</p> <p>(iii) the particulars of the appellate authority.</p>
<p>37. 7(4) Information shall ordinarily be provided in the form in which it is sought</p>	<p>7 (8) Information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert</p>	<p>7(9) An information shall ordinarily be provided in the form in which it is sought unless it would</p>

<p>unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.</p> <p>38. 8. (1) Notwithstanding anything herein before contained, the following information not being information relating to any matter referred to in sub-section (2), shall be exempted from disclosure, namely:-</p> <p>(a) information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, strategic scientific or economic interest of India or conduct of international relations;</p> <p>(b) information, the disclosure of which would prejudicially affect public safety and order, detection and investigation of an offence or which may lead to an incitement to commit an offence or prejudicially affect fair trial or adjudication of a pending case;</p> <p>(c) information, the disclosure of which would prejudicially affect the conduct of Centre State relations, including information exchanged in confidence between the Central and State Governments or any of their authorities or agencies;</p> <p>(d) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;</p> <p>(e) minutes or records of advice including legal advice, opinions or recommendations made by any officer of a public authority</p>	<p>the resources of the public authority or would be detrimental to the safety or preservation of the record in question.</p> <p>8 (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any person:</p> <p>(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence; (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court ;</p> <p>(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;</p> <p>(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the Competent Authority is satisfied that larger public interest warrants the disclosure of such information;</p> <p>(e) information available to a person in his fiduciary relationship, unless the Competent Authority is satisfied that the larger public interest warrants the disclosure of such information;</p> <p>(f) information received in confidence from foreign government;</p> <p>(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;</p> <p>(h) information which would impede the process of</p>	<p>disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.</p> <p>8. (1) Notwithstanding anything contained in this Act, except as otherwise provided herein, the following information shall be exempted from disclosure, namely:</p> <p>(a) information, the disclosure of which would,</p> <p>(i) prejudicially affect the sovereignty and integrity of India, security, strategic, scientific or economic interest of the State, relation with foreign State ; or</p> <p>(ii) lead to an incitement to commit an offence;</p> <p>(b) information, which has been expressly forbidden to be disclosed by any court of law or tribunal or the disclosure of which may constitute contempt of court;</p> <p>(c) information, the disclosure of which may result in a breach of privileges of Parliament or the Legislature of a State;</p> <p>(d) information, including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party:</p> <p>Provided that such information may be disclosed, if the Public Information Officer is satisfied that a larger public interest warrants the disclosure of such information;</p> <p>(e) information available to a person in his fiduciary relationship:</p> <p>Provided that such information may be disclosed, if</p>
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<p>during the decision making process prior to the executive decision or policy formulation;</p> <p>(f) trade or commercial secrets protected by law or information, the disclosure of which would prejudicially affect the legitimate economic and commercial interests or the competitive position of a public authority; or would cause unfair gain or loss to any person; and</p> <p>(g) information, the disclosure of which may result in the breach of privileges of Parliament or the Legislature of a State, or contravention of a lawful order of a court.</p>	<p>investigation or apprehension or prosecution of offenders;</p> <p>(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers, provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over; provided further that those matters which come under the exemptions listed in Section 8 shall not be disclosed;</p> <p>(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Information Officer or the appellate authority, as the case might be, is satisfied that the larger public interest justifies the disclosure of such information.</p> <p>Provided that the information, which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.</p> <p>Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with section 8 (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.</p>	<p>the Public Information Officer is satisfied that a larger public interest warrants the disclosure of such information;</p> <p>(f) information received in confidence from a foreign government;</p> <p>(g) information, the disclosure of which would endanger the life or physical safety of any person or cause to identify the source of information or assistance given in confidence of law enforcement or security purposes;</p> <p>(h) information, the disclosure of which would impede the process of investigation or apprehension or prosecution of offenders;</p> <p>(i) the Cabinet papers, including records of deliberations of the Council of Ministers, Secretaries and other officers:</p> <p>Provided that the decisions of the Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken, shall be made public after the decision has been taken, and the matter is complete, or over:</p> <p>Provided further that those matters which come under the exemptions listed in this section shall not be disclosed;</p> <p>(j) information which relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual:</p> <p>Provided that such information may be disclosed, if the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such</p>
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<p>39. 8(2) Subject to the provisions of clause (a) of sub-section 1, any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty-five years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:</p> <p>40. Provided that where any question arises as to the date from which the said period of twenty-five years has to be computed, the decision of the Central Government shall be final.</p> <p>41. 9. Without prejudice to the provisions of section 8, a public information officer may reject a request for information also where such request-</p> <p>(a) is too general in nature or is of such a nature that, having regard to the volume of information required to be retrieved or processed would involve unreasonable diversion of the resources of a public authority or would adversely interfere with the functioning of such authority:</p>	<p>8 (2) Subject to the provisions of clause (a) and (i) of sub-section 1 of section 8, any information relating to any occurrence, event or matter which has taken place, occurred or happened ten years before the date on which any request is made under section 6 shall be provided to any person making a request under that section.</p> <p>Provided that the matters covered by sub-Section 8(a) and sub-Section 8(i) may be disclosed after twenty-five years.</p> <p>Provided that where any question arises as to the date from which the said period of ten years or twenty-five has to be computed, the decision of the Union Government shall be final, subject to the usual appeals provided for in this Act.</p> <p>9. Without prejudice to the provisions of section 8, a Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.</p>	<p>information.</p> <p>(2) An information which cannot be denied to Parliament or Legislature of a State, as the case may be, shall not be denied to any person.</p> <p>(3) A public authority may, notwithstanding the exemptions specified in sub-section (1), allow access to information if public interest in disclosure of the information outweighs the harm to the public authority.</p> <p>8(4) Subject to the provisions of clauses (a) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place or occurred ten years before the date on which any request is made under section 6, shall be provided to the person making the request under that section:</p> <p>Provided that where any question arises to the date from which the said period of ten years has to be computed, the decision of the Central Government shall be final.</p> <p>9. Without prejudice to the provisions of section 8, a Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.</p>
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<p>Provided that where such request is rejected on the ground that the request is too general, it would be the duty of the Public Information Officer to render help as far as possible to the person making request to reframe his request in such a manner as may facilitate compliance with it;</p> <p>(b) relates to information that is required by law, rules, regulations or orders to be published at a particular time and such information is likely to be so published within thirty days of the receipt of such request;</p> <p>(c) relates to information that is contained in published material available to public; or</p> <p>(d) relates to information which would cause unwarranted invasion of the privacy of any person.</p> <p>42. 10. (1) If a request for access to information is rejected on the ground that it is in relation to information which is exempted from disclosure, then notwithstanding anything contained in this Act, access may be given to that part of the record which does not contain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.</p> <p>43. 10. (2) Where access is granted to a part of the record in accordance with sub-section (1), the person making the request shall be informed,-</p> <p>(a) that only part of the record requested, after severance of the record containing information which is exempted from</p>	<p>10. (1) If a request for access to information is rejected on the ground that it is in relation to information which is exempted from disclosure, then notwithstanding anything contained in this Act, access may be given to that part of the record which does not contain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.</p> <p>10(2) Where access is granted to a part of the record in accordance with sub-section (1), the Public Information Officer shall send a notice to the applicant, advising:</p> <p>(a) that only part of the record requested, after severance of the record containing information which is exempted from disclosure, is being furnished; and</p>	<p>10. (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.</p> <p>10(2) Where access is granted to a part of the record under sub-section (1), the Public Information Officer shall give a notice to the applicant, informing,-</p> <p>(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;</p>
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<p>disclosure, is being furnished; and</p> <p>(b) of the provisions of the Act under which the severed part is exempted from disclosure.</p> <p>44. (11)(1) Where a public authority intends to disclose any information or record, or part thereof, on a request made under this Act which relates to, or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within twenty - five days from the receipt of a request, give written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof;</p> <p>Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.</p> <p>(2) where a notice is given by the Public Information Officer under sub-section (1) to a third party in respect of any information</p>	<p>(b) The reasons for the decision; including any findings on any material questions of fact, referring to the material on which those findings were based;</p> <p>(c) The name and designation of the person giving the decision; and</p> <p>(d) Details of the fees determined by him/her and requesting the applicant to deposit the fees;</p> <p>(e) Information concerning his/her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fees charged and/or the form of access provided, including the contact details of the appellate body, time limits, process and any relevant forms;</p> <p>11. (1) Where a public authority intends to disclose any information or record, or part thereof on a request made under this Act which relates to, or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within five days from the receipt of a request, give written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof and invite the third party to make a submission, in writing or orally, regarding whether the information should be disclosed, which submission shall be taken into account when determining whether to disclose the information.</p> <p>Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such party.</p> <p>(2) where a notice is given by the Public Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof; the third party shall, within ten days from the date of issuance of notice, be given the opportunity to make representation against the proposed</p>	<p>(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;</p> <p>(c) the name and designation of the person giving the decision;</p> <p>(d) the details of the fees determined by him or her and the amount of fee which the applicant is required to deposit; and</p> <p>(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.</p> <p>11. (1) Where a public authority intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:</p> <p>Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.</p> <p>(2) Where a notice is served by the Public</p>
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<p>or record or part thereof, the third party shall, within twenty days from the date of issuance of notice, be given the opportunity to make representation against the proposed disclosure</p> <p>(3) Notwithstanding anything contained in section 7, the Public Information Officer shall, within sixty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.</p> <p>(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal against the decision under section 12.</p>	<p>disclosure.</p> <p>(3) Notwithstanding anything contained in section 7, the Public Information Officer shall, within twenty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.</p> <p>(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal against the decision under section 12(2).</p>	<p>Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.</p> <p>(3) Notwithstanding anything contained in section 7, the Public Information Officer shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.</p> <p>(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 15 against the decision.</p>
<p>45. Does not exist in the present Act.</p>	<p>12(1): (i)(a) The President shall appoint or designate a Chief Information Commissioner for all matters pertaining to the Union. Such appointment shall be made on the basis of a recommendation made by an Appointing Committee presided by the Prime Minister, with the Leader of Opposition in the Lok Sabha and the Chief Justice of India as members.</p> <p>(i) (b) The Governor shall appoint or designate a State Information Commissioner for all matters pertaining to the State. Such appointment shall be made on the basis of recommendation made by an Appointing Committee presided by the Chief Minister, with the Leader of Opposition in the Legislative Assembly and the Chief Justice</p>	<p style="text-align: center;">CHAPTER III</p> <p style="text-align: center;">THE CENTRAL INFORMATION COMMISSION</p> <p>12. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.</p> <p>(2) The Commission shall consist of –</p> <p>(a) the Information Commissioner; and</p> <p>(b) such number of Deputy Information Commissioners not exceeding ten as may be deemed necessary.</p> <p>(3) The Information Commissioner and the Deputy Information Commissioners shall be</p>

	<p>of the High Court as members.</p> <p>(ii) Information Commissioners may be appointed by the President or the Governor, as the case may be, in consultation with the appropriate Appointing Committee and the Chief Information Commissioner or State Information Commissioners, as the case may be.</p> <p>(iii) Every Chief Information Commissioner, State Information Commissioner and Information Commissioner shall be a person with wide knowledge and experience of administration and governance, and/or a person with high public stature.</p> <p>(iv) The Chief Information Commissioners and any Information Commissioners shall not be members of Parliament or members of the Legislative of any State or Union Territory and shall not hold any other office of profit and shall not be connected with any political party or be carrying on any business or practice any profession;</p> <p>(v) The requisite budgetary allocations for the emoluments and expenses, including office expenses, of the Chief Information Commissioner and of other Information Commissioners will be provided by the Government of India through special budgetary provisions made available to the respective States out of the Union Government Budget.</p> <p>(vi) The Chief Information Commissioner and other Information Commissioners shall function autonomously without being subjected to directions by any other authority and would be under the administrative control of the Government of India, Ministry of Personnel, Administrative Reforms and Public Grievances.</p>	<p>appointed by the President on the recommendation of a committee consisting of –</p> <p>(i) the Prime Minister, who shall be the Chairperson of the committee;</p> <p>(ii) the Leader of Opposition in the Lok Sabha; and</p> <p>(iii) the Chief Justice of India.</p> <p>Explanation.- For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of the Opposition.</p> <p>(4) The general superintendence, direction and management of the affairs of the Commission shall vest in the Information Commissioner who shall be assisted by the Deputy Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Commission autonomously without being subjected to directions by any other authority under this Act.</p> <p>(5) The Information Commissioner and the Deputy Information Commissioners shall be persons of eminence in public life with wide knowledge and experience of administration and governance.</p> <p>(6) The Information Commissioner or a Deputy Information Commissioner shall not be a member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.</p> <p>(7) The headquarters of the Commission shall be at</p>
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<p>46. Does not exist in the present Act.</p>	<p>12 (vii) Every person appointed as a Chief Information Commissioner or an Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office. He/she will not be eligible for reappointment.</p>	<p>Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.</p> <p>(8) Every Deputy Information Commissioner shall perform his functions within such area as may be specified by the Central Government.</p> <p>13. (1) The Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment:</p> <p>Provided that the Central Government may extend the term of five years by one more year if recommended by the Committee referred to in sub-section (3) of Section 12:</p> <p>Provided further that no Information Commissioner shall hold office as such after he has attained the age of sixty-five years.</p> <p>(2) Every Deputy Information Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:</p> <p>Provided that every Deputy Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the Information Commissioner in the manner specified in sub-section (3) of section 12:</p> <p>Provided further that where the Deputy Information Commissioner is appointed as the Information Commissioner, his term of office shall not be more than five years in aggregate as the Deputy Information Commissioner and the Information Commissioner.</p> <p>(3) The Information Commissioner or a Deputy</p>
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		<p>Information Commissioner, shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.</p> <p>(4) The Information Commissioner or a Deputy Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:</p> <p>Provided that the Information Commissioner or a Deputy Information Commissioner may be removed in the manner specified under section 14.</p> <p>(5) The Information Commissioner or a Deputy Information Commissioner shall, on cessation of his office, not be eligible for—</p> <p>(a) any diplomatic assignment, assignment as administrator of a Union territory or such other assignment or appointment which is required by law to be made by the President by warrant under his hand and seal;</p> <p>(b) further employment to any office of profit under the Government of India or the Government of a State.</p> <p>(6) The salaries and allowances payable to and other terms and conditions of service of—</p> <p>(a) the Information Commissioner shall be the same as that of a Secretary to the Government of India;</p> <p>(b) the Deputy Information</p> <p>Provided that if the Information Commissioner or a Deputy Information Commissioner, at the time of his appointment is, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or</p>
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<p>47. Does not exist in the present Act.</p>	<p>Does not exist in the Bill.</p>	<p>under the Government of a State, his salary in respect of the service as the Information Commissioner or a Deputy Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:</p> <p>Provided further that if the Information Commissioner or a Deputy Information Commissioner, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Information Commissioner or the Deputy Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:</p> <p>Provided also that the salaries, allowances and the other conditions of service of the Information Commissioner and the Deputy Information Commissioners shall not be varied to their disadvantage after their appointment.</p> <p>(7) The Central Government shall provide the Information Commissioner and the Deputy Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the other terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.</p> <p>14. (1) Subject to the provisions of sub-section (3), the Information Commissioner or any Deputy</p>
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		<p>Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Information Commissioner or any Deputy Information Commissioner, as the case may be, ought on such ground be removed.</p> <p>(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Information Commissioner or Deputy Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.</p> <p>(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Information Commissioner or any Deputy Information Commissioner if the Information Commissioner or a Deputy Information Commissioner, as the case may be,</p> <p>(a) is adjudged an insolvent; or</p> <p>(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or</p> <p>(c) engages during his term of office in any paid employment outside the duties of his office; or (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or</p> <p>(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as an Information Commissioner or a Deputy Information Commissioner.</p>
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<p>48. Does not exist in the present Act.</p>	<p>12(3) Powers of the Chief Information Commissioner/State Information Commissioners/Information Commissioners</p> <p>(1) Subject to this Act, the Chief Information Commissioner /State Information Commissioners/Information Commissioners shall receive and investigate complaints from persons:</p> <p>(a) who have been unable to submit a request to a Public Information Officer, either because none has been appointed as required under the Act or because the Public Information Officer has refused to accept their application;</p> <p>(b) who have been refused access to information requested under this Act;</p> <p>(c) who have not been given a response or access to information within the time limits required under this Act;</p> <p>(d) who have been required to pay an amount under the fees provisions that they consider unreasonable;</p> <p>(e) who believe that they have been given incomplete, misleading or false information under this Act;</p> <p>(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.</p> <p>(2) Where a Chief Information Commissioner/State Information Commissioner/Information Commissioner is satisfied that there are reasonable grounds to investigate a</p>	<p>(4) If the Information Commissioner or any Deputy Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.</p> <p>15. (1) Subject to the provisions of this Act, it shall be the duty of the Commission to receive and inquire into a complaint from any person,-</p> <p>(a) who has been unable to submit a request to a Public Information Officer, either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for forwarding the same to the public authority or the Government;</p> <p>(b) who has been refused access to any information requested under this Act;</p> <p>(c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;</p> <p>(d) who has been required to pay an amount of fee which he or she considers unreasonable;</p> <p>(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and</p> <p>(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.</p> <p>(2) Where the Commission is satisfied that there are</p>
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	<p>matter relating to requesting or obtaining access to records under this Act, he/she may initiate a complaint in respect thereof.</p> <p>(3) The Chief Information Commissioner/State Information Commissioners/Information Commissioners have, in relation to the carrying out of the investigation of any complaint under this Act, power:</p> <p>(a) to summon and enforce the appearance of persons 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;</p> <p>(b) to administer oaths;</p> <p>(c) to receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as the relevant Information Commissioner sees fit, whether or not the evidence or information is or would be admissible in a court of law;</p> <p>(d) to enter any premises occupied by any government institution on satisfying any security requirements of the institution relating to the premises;</p> <p>(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 Chief Information Commissioner under this Act as the Commissioner sees fit; and</p> <p>(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.</p> <p>(g) To impose the penalties prescribed under this Act, after giving due opportunity to the concerned official of being</p>	<p>reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.</p> <p>(3) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-</p> <p>(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;</p> <p>(b) requiring the discovery and inspection of documents;</p> <p>(c) receiving evidence on affidavit;</p> <p>(d) requisitioning any public record or copies thereof from any court or office;</p> <p>(e) issuing summons for examination of witnesses or documents; and</p> <p>(f) any other matter which may be prescribed.</p> <p>(4) Notwithstanding any thing consistent contained in any other Act of Parliament, the Commission may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.</p>
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<p>49. 12. (1) Any person aggrieved by a decision of the Public Information Officer may, within thirty days of receipt of such decision, prefer an appeal to such authority as may be prescribed: Provided that such authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p> <p>(2) A second appeal against the decision under sub-section (1) shall lie within thirty days of such decision, to the Central Government or the State Government or the competent authority, as the case may be:</p> <p>Provided that the Central Government or the State Government or the competent authority, as the case may be, may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p>	<p>heard.</p> <p>(4) Notwithstanding any other Act of Parliament or any privilege under the law of evidence, an Chief Information Commissioner /State Information Commissioners/Information Commissioners may, during the investigation of any complaint under this Act, examine any record to which this Act applies that is under the control of a government institution, and no such record may be withheld from any Commissioner on any grounds.</p> <p>(5) All the powers of the Chief Information Commissioner would also be enjoyed by the State Information Commissioners and other Information Commissioners, within their jurisdictions.</p> <p>12. (2) (i) Any person who does not receive a decision in the time period specified in Section 7(1) or 7(3)(a) above, or is aggrieved by a decision of the Public Information Officer may, within thirty days of the expiry of such a period or of receipt of such a decision, prefer an appeal to an appellate authority prescribed for the purpose in each department and senior in rank to the Public Information Officer.</p> <p>Provided that such authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p> <p>(ii) A second appeal against the decision (or lack of it), under sub-section (i), shall lie within 90 days from the time by which the decision should have been made or was actually received, with the relevant Chief/State/Information Commissioner;</p> <p>Provided that the relevant Chief/State/Information Commissioner may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p>	<p>16. (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Public Information Officer, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Public Information Officer in each public authority:</p> <p>Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p> <p>(2) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Commission:</p> <p>Provided that the Commission may admit the appeal after the expiry of the period of ninety days if is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p> <p>(3) Where an appeal is preferred against an order</p>
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<p>(3) The appeals referred to in sub-sections (1) and (2) shall be disposed of within thirty days of the receipt of such appeals or within such extended period, as the case may be, for reasons to be recorded in writing.</p> <p>(4) If the decision of the Public Information Officer against which the appeal is preferred under sub-section (1) or (2) also relates to information of third party, the appellate authority shall give a reasonable opportunity of being heard to that third party.</p>	<p>(iii) Where an appeal is being preferred against an order made by the Public Information officer under Section 11 to disclose “third party” information , the appeal by the concerned third party must be made within thirty days of the order.</p> <p>(iv) If the decision of the Public Information Officer against which the appeal is preferred relates to information of a third party, the relevant Information Commissioner shall give a reasonable opportunity of being heard to that third party.</p> <p>(v) In any appeal proceedings, the onus to prove that a denial of a request was justified will be on the public authority that denied the request.</p> <p>(vi) Appeals to any appellate authority/Information Commissioner shall be disposed of within thirty days of the receipt of the appeals, for within such extended period, not exceeding a total of forty five days from the date of filing of appeal, for reasons to be recorded in writing.</p> <p>(vii) The decision of the Information Commissioner shall be binding.</p> <p>(viii) In his/her decision, the relevant Information Commissioner has the power to:</p> <p>(a) require the public authority to take any such steps as may be necessary to bring it into compliance with the Act, including by;</p> <p>(i) providing access to information, including in a particular form;</p> <p>(ii) appointing an Information Officer;</p> <p>(iii) publishing certain information and/or categories of information;</p> <p>(iv) making certain changes to its practices in relation to the keeping, management and destruction of records;</p> <p>(v) enhancing the provision of training on the right to</p>	<p>made by the Public Information Officer under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.</p> <p>(4) If the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Commission shall give a reasonable opportunity of being heard to that third party.</p> <p>(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the public authority which denied the request.</p> <p>(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.</p> <p>(7) The decision of the Commission shall be binding.</p> <p>(8) In its decision, the Commission has the power to:</p> <p>(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—</p> <p>(i) by providing access to information, if so requested, in a particular form;</p> <p>(ii) by appointing a Public Information Officer;</p> <p>(iii) by publishing certain information or categories of information;</p> <p>(iv) by making necessary changes to its practices in relation to the maintenance , management and</p>
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<p>50. Does not exist in the present Act.</p>	<p>information for its officials;</p> <p>(vi) providing him or her with an annual report, in compliance with section 4(b);</p> <p>(b) require the public body to compensate the complainant for any loss or other detriment suffered;</p> <p>(c) impose any of the penalties available under this Act;</p> <p>(d) reject the application.</p> <p>(ix) The Information Commissioner shall serve notice of his/her decision, including any rights of appeal, on both the complainant and the public authority.</p> <p>(x) A decision of the Information Commissioner may be appealed to the High Court or the Supreme Court, on any point of fact and law.</p> <p>12 (4) Penalties</p> <p>(1) Subject to sub-section (3), where any Public Information Officer has, without any reasonable cause, failed to supply the information sought, within the period specified under section 7(1), the relevant Information Commissioner shall, on appeal, impose a penalty of rupees two hundred and fifty, which amount must be increased by regulation at least once every five years, for each day's delay in furnishing the information, after giving such Public Information Officer a</p>	<p>destruction of records;</p> <p>(v) by enhancing the provision of training on the right to information for its officials;</p> <p>(vi) by providing it with an annual report in compliance with clause</p> <p>(b) of sub-section (1) of section 4;</p> <p>(b) require the public authority to compensate the complainant for any loss or other detriment suffered;</p> <p>(c) impose any of the penalties provided under this Act;</p> <p>(d) reject the application.</p> <p>(9) The Commission shall give notice of its decision, including any right of appeal, to the complainant and the public authority.</p> <p>(10) The Commission shall decide the appeal in accordance with such procedure as may be prescribed.</p> <p>(11) An appeal against the decision of the Commission shall lie in the High Court on any point of fact and law.</p> <p>17. (1) Notwithstanding anything contained in section 20, where the Commission at the time of deciding any appeal is of the opinion that the Public Information Officer has persistently failed to provide information without any reasonable cause within the period specified under sub-section (1) of section 7, the Commission may authorise any officer of the Central Government to file a complaint against such Public Information Officer before a Judicial Magistrate of First Class.</p>
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	<p>reasonable opportunity of being heard.</p> <p>(2) Subject to sub-section (3), where it is found in appeal that any Public Information Officer has—</p> <ul style="list-style-type: none">(i) Refused to receive an application for information;(ii) Mala fide denied a request for information;(iii) Knowingly given incorrect or misleading information;(iv) Knowingly given wrong or incomplete information;(v) Destroyed information subject to a request, or(vi) Obstructed the activities of a Public Information Officer, any Information Commissioner or the courts; <p>he/she would have committed an offence and will be liable upon summary conviction to a fine of not less than rupees two thousand and imprisonment of up to five years, or both.</p> <p>(3) An officer whose assistance has been sought by the Public Information Officer for the performance of his/her duties under this Act shall be liable for penalty as prescribed in sub-sections (1) and (2) jointly with the Public Information Officer or severally as may be decided by the relevant Information Commissioner.</p> <p>(4) Any fines imposed under sub-sections (1), (2) and (3) shall be recoverable from the salary of the concerned officer, including the Public Information Officer, or if no salary is drawn, as an arrears of land revenue, recoverable within a maximum of six months of the order imposing the fine.</p> <p>(5) The Public Information Officer or any other officer on whom the penalty under sub-sections (1), (2) and (3) is imposed shall also be liable to appropriate disciplinary action under the service rules applicable to him. Provided that in cases where the officer is proved guilty of deliberate denial of information or misinformation, the punishment imposed shall be a major penalty, i.e., dismissal or removal or reduction in rank.</p>	<p>(2) Any Public Information Officer who is in default under sub-section (1) shall be liable on conviction to fine which may extend to rupees twenty-five thousand or a term of imprisonment which may extend to five years, or with both.</p>
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CHAPTER III: MISCELLANEOUS	CHAPTER III: MISCELLANEOUS	CHAPTEK IV: MISCELLANEOUS
<p>51. 13. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.</p>	<p>13. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.</p>	<p>18. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.</p>
<p>52. 14. The provisions of this Act shall have effect not withstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>	<p>14. The provisions of this Act shall have effect not withstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>	<p>19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>
<p>53. 15. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.</p>	<p>15. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.</p>	<p>20. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.</p>
<p>54. 16. (1) Nothing contained in this Act shall apply to the intelligence and security organisations, specified in the Schedule, being organizations established by the Central Government or any information furnished by such organisations to that Government.</p> <p>(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that government or omitting therefrom any organization already specified therein and on the publication of</p>	<p>16. (1) Nothing contained in this Act shall apply to the intelligence and security organisations, specified in the Schedule being organizations established by the Union Government or any information furnished by such organisations to that Government.</p> <p>Provided that information pertaining to alleged violations of human rights, to the life and liberty of human beings and to the allegations of corruption will not be excluded under this clause.</p> <p>(2) The Union Government may, by notification in the official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that government or omitting therefrom any organisation</p>	<p>21. (1) Nothing contained in this Act shall apply to the intelligence and security organizations specified in the Second Schedule, being organizations established by the Central Government or any information furnished by such organisations to that Government:</p> <p>Provided that the information pertaining to the allegations of corruption shall not be excluded under this sub-section.</p> <p>(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or</p>

<p>such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.</p> <p>(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.</p> <p>(4) Nothing contained in this Act shall apply to such intelligence and security organisations which may be specified by a notification in the Official Gazette, by a State Government from time to time.</p> <p>(5) Every notification issued under sub section (4) shall be laid before the State Legislature.</p> <p>55. Does not exist in the present Act.</p>	<p>already specified therein and on the publication of such notification such organisation shall be deemed to be included in or, as the case may be omitted from the Schedule.</p> <p>(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament. (4) Nothing contained in this Act shall apply to such intelligence and security organisations which may be specified, by a notification in the official gazette, by a State Government from time to time. Provided that information pertaining to alleged violations of human rights, to the life and liberty of human beings and to the allegations of corruption will not be excluded under this clause.</p> <p>(5) Every notification issued under sub section (4), shall be laid before the State Legislature.</p> <p>16A. Monitoring and Reporting</p> <p>1. The Chief Information Commissioners/State Information Commissioners/Information Commissioners shall, as soon as practicable after the end of each year, prepare a report on the implementation of this Act during that year and cause a copy of the report to be laid before the legislatures of the concerned State and each House of the Parliament.</p> <p>2. Each responsible department/ministry shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Chief/State/ Information Commissioners, as is required to prepare the report under this section, and shall comply with any prescribed requirements concerning the furnishing of that information and the keeping of records for the purposes of this section.</p> <p>3. Each report shall, at a minimum, state in respect of the year to which the report relates:</p> <p>(a) the number of requests made to each public authority;</p> <p>(b) the number of decisions that an applicant was not entitled to access to a document pursuant to a request, the</p>	<p>omitting therefrom any organisation already specified therein and on the publication of such notification, such organization shall be deemed to be included in or, as the case may be, omitted from the Schedule.</p> <p>(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.</p> <p>22. (1) The Commission shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the Central Government.</p> <p>(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Commission as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.</p> <p>(3) Each report shall state in respect of the year to which the report relates,-</p> <p>(a) the number of requests made to each public authority;</p> <p>(b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under</p>
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	<p>provisions of this Act under which these decisions were made and the number of times each provision was invoked;</p> <p>(c) the number of appeals sent to the Information Commissioners for review, the nature of the complaints and the outcome of the appeals;</p> <p>(d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;</p> <p>(e) the amount of charges collected by each public authority under this Act;</p> <p>(f) any facts which indicate an effort by public authorities to administer and implement the spirit and intention of this Act;</p> <p>(g) 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.</p> <p>4. The Union Government Ministry responsible for the administration of this Act, as soon as practicable after the end of each year, prepare a summary report on the implementation of this Act during that year and cause a copy of the report to be laid before the concerned State Legislatures and each House of the Parliament, drawing on the information provided in the reports of the Chief Information Commissioners for each State.</p> <p>5. If it appears to any Chief Information Commissioner that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with provisions or spirit of the Act , s/he may give to the authority a recommendation specifying the steps which ought in his/her opinion to be taken for promoting such conformity.</p>	<p>which these decisions were made and the number of times such provisions were invoked;</p> <p>(c) the number of appeals referred to the Commission for review, the nature of the appeals and the outcome of the appeals;</p> <p>(d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;</p> <p>(e) the amount of charges collected by each public authority under this Act;</p> <p>(f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;</p> <p>(g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.</p> <p>(4) The Central Government may, as soon as practicable after the end of each year, cause a copy of the report of the Commission referred to sub-section (1) to be laid before each House of Parliament.</p>
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<p>56. Does not exist in the present Act.</p>	<p>16B (1)</p> <p>The Government must, to the extent that financial and other resources are available:</p> <p>(a) develop and conduct educational programmes to advance the understanding of the public, in particular of disadvantaged communities of this Notification and of how to exercise the rights contemplated in this Act;</p> <p>(b) encourage public authorities to participate in the development and conduct of programmes referred to in paragraph (a) and to undertake such programmes themselves;</p> <p>(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and</p> <p>(d) train information officers of public authorities and/or produce relevant training materials for use by authorities themselves.</p> <p>(2) The Government must, within 18 months of this Act coming into force, compile in each official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in this Act.</p> <p>(3) The Government must, if necessary, update and publish the guide at regular intervals. The guide must, without</p>	<p>(5) If it appears to the Commission that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.</p> <p>23.(1) The Central Government may, to the extent of availability of financial and other resources,-</p> <p>(a) develop and organize educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;</p> <p>(b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;</p> <p>(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and</p> <p>(d) train Information Officers of public authorities and produce relevant training materials for use by the public authorities themselves.</p> <p>(2) The Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.</p> <p>(3) The Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and</p>
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<p>57. 17. (1) The Central Government may by notification in the Official Gazette, make</p>	<p>limiting the generality of sub-section (2), include a description of-</p> <ul style="list-style-type: none"> (a) the objects of this Act; (b) the postal and street address, phone and fax number and, if available, electronic mail address of the Public Information Officer of every public authority as appointed under sub- section (1) of section 5 (c) the manner and form of a request for access to a information of a public authority; (d) the assistance available from and the duties of Public Information Officers of a public authority in terms of this Act; (e) the assistance available from the Information Commissioners in terms of this Act; (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act, including the manner of lodging an appeal with the appellate authorities/Chief/State/Information Commissioners and a court against a decision by the Public Information Officer of a public authority; (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4; (h) the notices regarding fees to be paid in relation to requests for access; and (i) any additional regulations or circulars relevant to obtaining access to information in accordance with this Act. <p>(4) The Government must, if necessary, update and publish the guide at regular intervals.</p> <p>17. (1) The Union Government may by notification in the Official Gazette, make rules to carry out the provisions of</p>	<p>without prejudice to the generality of sub-section (2), include-</p> <ul style="list-style-type: none"> (a) the objects of this Act; (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Public Information Officer of every public authority appointed under sub-section (1) of section 5; (c) the manner and the form in which request for access to an information shall be made to a public authority; (d) the assistance available from and the duties of the Public Information Officers of a public authority under this Act; (e) the assistance available from the Commission; (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission; (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4; (h) the notices regarding fees to be paid in relation to requests for access to an information; and (i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act. <p>(4) The Government must, if necessary, update and publish the guidelines at regular intervals.</p> <p>24. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the</p>
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<p>rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) intervals at which matters referred to in sub-clauses (i) to (vi) of clause (b) of section 4 shall be published;</p> <p>(b) The fee payable under sub-section (1) of section 7;</p> <p>(c) the authority before whom an appeal may be preferred under sub-section (1) of section 12; .</p> <p>(d) any other matter which is required to be, or may be, prescribed.</p>	<p>this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) intervals at which matters referred to in sub-clauses (i) to (vi) of clause (b) of section 4 shall be published;</p> <p>(b) The fee payable under sub-section (1) of section 7;</p> <p>(c) the authority before whom an appeal may be preferred under sub-section (1) of section 12;</p> <p>(d) any other matter which is required to be, or may be, prescribed.</p>	<p>provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) intervals at which matters referred to in sub-clauses (i) to (xvii) of clause (b) of sub-section (1) of section 4 shall be published;</p> <p>(b) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;</p> <p>(c) the fee payable under sub-section (1) of section 6;</p> <p>(d) the fee payable under sub-sections (1) and (5) of section 7;</p> <p>(e) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (7) of section 13;</p> <p>(f) the procedure to be adopted by the Commission in deciding the appeals under sub-section (10) of section 16; and</p> <p>(g) any other matter which is required to be, or may be, prescribed.</p>
<p>58. 18. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:</p> <p>(a) the fee payable under sub-section (1) of section 7;</p>	<p>18. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:</p> <p>(a) the fee payable under sub-section (1) of section 7;</p> <p>(b) the authority before whom an appeal may be preferred under sub-section (1) of section 12;</p>	

<p>(b) the authority before whom an appeal may be preferred under sub-section (1) of section 12;</p> <p>(c) any other matter which is required to be, or may be, prescribed:</p> <p>Provided that initially the rules shall be made by the Central Government by notification in the official Gazette.</p> <p>59. 19. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—</p> <p>(a) the fee payable under sub-section (1) of section 7;</p> <p>(b) the authority before whom an appeal may be preferred under sub-section (1) of section 12;</p> <p>(c) any other matter which is required to be, or may be, prescribed.</p>	<p>(c) any other matter which is required to be, or may be, prescribed:</p> <p>Provided that initially the rules shall be made by the Central Government by notification in the Official Gazette.</p> <p>19. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) the fee payable under sub-section (1) of section 7;</p> <p>(b) the authority before whom an appeal may be preferred under sub-section (1) of section 12;</p> <p>(c) any other matter which is required to be, or may be, prescribed.</p>	<p>25. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(i) intervals at which matters referred to in sub-clauses (i) to (xvii) of clause (b) of sub-section (1) of section 4 shall be published;</p> <p>(ii) the cost of the medium of print cost price of the materials to be disseminated under sub-section (4) of section 4;</p> <p>(iii) the fee payable under sub-section (1) of section 6;</p> <p>(iv) the fee payable under sub-section (1) of section 7;</p> <p>(v) any other matter which is required to be, or may be, prescribed.</p>
<p>60. 20. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the</p>	<p>20. (1) Every rule made by the Union Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in</p>	<p>26. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the</p>

<p>expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in 'making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> <p>61. 20(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.</p> <p>62. (1) If any difficulty arises in giving effect to the provisions of this Act, the Union Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.</p> <p>(2) Every order made under this section shall as soon as may be after it is made, be laid before each Houses of Parliament.</p> <p>63. Does not exist in the present Act.</p> <p>64. Does not exist in the present Act.</p>	<p>making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> <p>20(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.</p> <p>21. (1) If any difficulty arises in giving effect to the provisions of this Act, the Union Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.</p> <p>(2) Every order made under this section shall as soon as may be after it is made, be laid before each Houses of Parliament.</p> <p>Does not exist in the Bill.</p> <p>Does not exist in the Bill.</p>	<p>successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> <p>27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.</p> <p>(2) Every order made under this section shall as soon as may be after it is made, be laid before each House of Parliament.</p> <p>28. The Freedom of Information Act, 2002 is hereby repealed.</p>
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<p>65. THE SCHEDULE (See section 16)</p> <p>INTELLIGENCE AND SECURITY ORGANISATIONS ESTABLISHED BY THE CENTRAL GOVERNMENT.</p> <ol style="list-style-type: none"> 1. Research and Analysis Wing of the Cabinet Secretariat. 2. Directorate of Revenue Intelligence. 3. Central Economic Intelligence Bureau. 4. Directorate of Enforcement. 5. Narcotics Control Bureau. 6. Aviation Research Centre. 7. Special Frontier Force. 8. Border Security Force. 9. Central Reserve Police Force. 	<p>THE SCHEDULE (See section 16 (1))</p> <p>INTELLIGENCE AND SECURITY ORGANISATIONS ESTABLISHED BY THE CENTRAL GOVERNMENT.</p> <ol style="list-style-type: none"> 1. Intelligence Bureau. 2. Research and Analysis Wing of Secretariat. 3. Directorate of Revenue Intelligence. 4. Central Economic Intelligence Bureau. 5. Directorate of Enforcement. 6. Narcotics Control Bureau. 7. Aviation Research Centre. 8. Special Frontier Force. 9. Border Security Force. 10. Central Reserve Police Force. 	<p>THE FIRST SCHEDULE [See sub-section (3) of section 13]</p> <p>Form of oath or affirmation to be made by the Information Commissioner or the Deputy Information Commissioner</p> <p>Commissioner</p> <p>“I,, having been appointed Information Commissioner/Deputy Information Commissioner swear in the name of God, that I will bear true faith solemnly affirm allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”</p> <p>THE SECOND SCHEDULE (See section 21)</p> <p>INTELLIGENCE AND SECURITY ORGANISATIONS ESTABLISHED BY THE CENTRAL GOVERNMENT.</p> <ol style="list-style-type: none"> 1. Intelligence Bureau. 2. Research and Analysis Wing of the Cabinet Secretariat. 3. Directorate of Revenue Intelligence. 4. Central Economic Intelligence Bureau. 5. Directorate of Enforcement. 6. Narcotics Control Bureau. 7. Aviation Research Centre. 8. Special Frontier Force.
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<p>10. Indo Tibetan Border Police.</p> <p>11. Central Industrial Security Force.</p> <p>12. National Security Guards.</p> <p>13. Assam Rifles.</p> <p>14. Special Service Bureau.</p> <p>15. Special Branch (CID), Andaman and Nicobar.</p> <p>16. The Crime Branch-CID, - CB, Dadra and Nagar Haveli.</p> <p>17. Directorate of Vigilance including Anti Corruption Branch, National Capital Territory of Delhi.</p> <p>19. Special Branch, Lakshadweep Police.</p>	<p>11. Indo Tibetan Border Police.</p> <p>12. Central Industrial Security Force.</p> <p>13. National Security Guards.</p> <p>14. Assam Rifles.</p> <p>15. Special Service Bureau.</p> <p>16. Special Branch (CID), Andaman and Nicobar.</p> <p>17. The Crime Branch-CID, - CB, Dadra and Nagar Haveli.</p> <p>18. Directorate of Vigilance including Anti Corruption Branch, National Capital Territory of Delhi.</p> <p>19. Special Branch, Lakshadweep Police.</p>	<p>9. Border Security Force.</p> <p>10. Central Reserve Police Force.</p> <p>11. Indo Tibetan Border Police.</p> <p>12. Central Industrial Security Force.</p> <p>13. National Security Guards.</p> <p>14. Assam Rifles.</p> <p>15. Special Service Bureau.</p> <p>16. Special Branch (CID), Andaman and Nicobar.</p> <p>17. The Crime Branch-CID. - CB, Dadra and Nagar Haveli.</p> <p>18. Special Branch, Lakshadweep Police.</p>
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**GIST OF THE SUGGESTIONS RECEIVED ON THE RIGHT TO INFORMATION BILL, 2004
ALONGWITH THE COMMENTS OF THE MINISTRY**

Clauses	Suggestions	Comments of the Ministry	Remarks
1	2	3	4
2: Definitions	'Public authority' and 'Government' need to be amended so as to cover State Governments and other local bodies within purview of the Bill.	Opinion of experts is being sought.	The Committee may consider this issue in the light of much debated matter of Legislative competence.
3: Right to Information.	The word 'citizens' be substituted by the word 'persons'.	Government may accept this amendment in view of the similar laws being implemented in other countries.	
4: Obligations of public authorities.	i) Contracts entered into by public authorities may also be included. ii) Information should be published suo-moto.	It will not be in the interest of national security to accept this recommendation. C1 4 (2) provides suo-moto information.	The Committee may consider this suggestion.
6: Request for obtaining information.	Fee should be fixed in the legislation itself.	Such matters are relegated to subordination legislation.	
7: Disposal of request.	i) Fee must be reasonable and should not exceed the actual cost of supplying the information. ii) Fee should be waived in case it causes financial hardship or public interest is involved.	There is a practice in other countries to charge fee even for search and preparing documents while the Bill does not make any such Provision and therefore it is reasonable. Moreover there is a Provision to	

		intimate the seeker about calculations.	
8: Exemption from disclosure of information.	Provision regarding the cabinet papers be deleted and be substituted by an expression which may include under exemption only those cabinet documents premature disclosure of which would harm public authority.	Article 192 (2) imposes reasonable restrictions on the Right in the interest of sovereignty and integrity of the country etc.	
11: Third party information.	There is apprehension that information can be denied on the ground that it is confidential.	Third party intervention is well accepted and Almost all foreign Acts contain such provision.	
12: Constitution of Central Information Commission.	(i) There should not be previous approval of the Central Government as mentioned in clause 12(7). (ii) Number of Deputy Information Commissioners should be more to cover the whole country. (iii) There should be more autonomy and independence for the commission. (iv) Qualifications should be specified.	The provisions regarding constitution of the Commission Adequately cover the points raised. The suggestion that Deputy Information Commissioner Should perform is function under direction of the Information Commissioner has been noted.	
16: Appeal.	(i) Appeal should be made to the head of the public authority. (ii) The Commission should have power to evolve its own procedure in deciding appeals.	Suggestions have been noted for Detailed examination	
17: Penalties.	(i) Penalty clause makes the whole Bill ineffective and	Information Commission will be	

	toothless as it has not specified	non-judicial non-	
	offences as recommended by	departmental	
	NAC.	appellate body and	
		Therefore is not	
	(ii) Power of imposing penalty	permissible in law	
	has been taken away from the	to empower such a	
	Information Commissioner.	body impose	
		penalty.	
21: Act not to	The Bill excludes violations of	It has not been	
apply to certain	human rights and right of life	considered	
organizations.	and liberty of human being	desirable to extent	
	from being disclosed. This	exemption to other	
	gives blanket exclusion to the	areas on the ground	
	intelligence and security	of national security	
	agencies.	or embarrassment	
		to the Government	
		in its functioning or	
		prejudice the	
		national interest.	

(See page 36, para 41.0 of the Report)

THE RIGHT TO INFORMATION BILL, 2004

(AS AMENDED BY THE STANDING COMMITTEE)

[Words underlined indicate the amendments/insertions suggested by the Committee, asterisks indicate deletions]

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BILL

to provide for setting out the practical regime of right to information for people to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and for matters connected therewith or incidental thereto.

Whereas the Constitution of India has established democratic Republic; and

And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And whereas revelation of information in actual practice is likely to conflict with other public interests such as efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

NOW, Therefore, It is expedient to provide for furnishing certain information to persons desirous of it;

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

Short title, extent and commencement.	<p>1. (1) This Act may be called the Right to Information Act, 2004.</p> <p>(2) It extends to the whole of India except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on the one hundred and twentieth day of its enactment.</p>	
Definitions.	<p>2. In this Act, unless the context otherwise requires,-</p> <p>(aa) “appropriate Government” means in relation to a public authority which is established, constituted, owned or substantially financed -</p> <p>(i) by the Central Government or the Union Territory administration, the Central Government;</p> <p>(ii) by the State Government the State Government;</p> <p>(a) “Central information Commission” means the Central</p>	

Information Commission constituted under sub-section (1) of section 12;

(b) “competent authority” means -

(i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory and the Chairman in the case of the Council of States or a Legislative Council of a State;

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court in the case of a High Court;

(iv) the President or the Governor, as the case may be in the case of other authorities created by or under the Constitution;

(v) the administrator appointed under article 239 of the Constitution;

(c) *****

(d) “information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(e) “Central Information Commissioner” and “Central Deputy Information Commissioners” mean the Central Information Commissioner and the Deputy Central Information Commissioners appointed under sub-section (3) of section 12;

(f) “prescribed” means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(g) “public authority” means any local authority or local body or local Self Government institution established or constituted,-

(i) by or under the Constitution;

(ii) by any other law made by Parliament;

(iii) by any other law made by State Legislature;

(iv) by notification issued or order made by the appropriate Government,

and includes any non-Government organisation or any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government;

(h) “Central Public Information Officer” means the Central Public Information Officer appointed under subsection (1), and includes an Assistant Information Officer designated as such under sub-section (2), of section 5;

(i) “record” includes

<p>Right to information.</p> <p>Obligations of public authorities.</p>	<p>(i) any document, manuscript and file;</p> <p>(ii) any microfilm, microfiche and facsimile copy of a document;</p> <p>(iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and</p> <p>(iv) any other material produced by a computer or any other device;</p> <p>(j) “right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-</p> <p>(i) inspection of work, documents, records;</p> <p>(ii) taking notes, extracts, or certified copies of documents or records;</p> <p>(iii) taking certified samples of material;</p> <p>(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;</p> <p>(JJ) “State Information Commission” means the State Information Commission constituted under subsection (1) of section 17 B;</p> <p>(jjj) “State Information Commissioner” and “State Deputy Information Commissioners” mean the State Information Commissioner and the State Deputy Information Commissioners appointed under subsection (3) of section 17B ;</p> <p>(jjj) “State Public Information Officer” means the State Public Information Officer appointed under subsection (1) and includes an State Assistant Information Officer designated as such under sub-section (2) of section 17A;</p> <p>(k) “third party” means a person other than the person making a request for information ****.</p> <p style="text-align: center;">CHAPTER II</p> <p style="text-align: center;">RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES</p> <p>3. Subject to the provisions of this Act, all citizens shall have the right to information.</p> <p>4. (1) Every public authority shall —</p> <p>(a) maintain all its records duly catalogued and indexed in a manner and form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;</p> <p>(b) publish before the commencement of this Act,—</p>	
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| | <p>(i) the particulars of its organisation, functions and duties;</p> <p>(ii) the powers and duties of its officers and employees;</p> <p>(iii) the procedure followed in the decision making process, including channels of supervision and accountability;</p> <p>(iv) the norms set by it for the discharge of its functions;</p> <p>(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;</p> <p>(vi) a statement of the categories of documents that are held by it or under its control;</p> <p>(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 administration thereof;</p> <p>(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 are open to the public, or the minutes of such meetings are accessible for public;</p> <p>(ix) a directory of its officers and employees;</p> <p>(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;</p> <p>(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;</p> <p>(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;</p> <p>(xiii) particulars of recipients of concessions, permits or authorisations granted by it;</p> <p>(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;</p> <p>(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;</p> <p>(xvi) the names, designations and other particulars of the Public Information Officers;</p> <p>(xvii) such other information as may be prescribed;</p> <p>and thereafter update these publications every year;</p> <p>(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;</p> | |
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<p>Designation of Central of State Public Information Officers.</p>	<p>(d) provide reasons for its administrative or quasi judicial decisions to affected persons;</p> <p>(e) 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.</p> <p>(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information <i>suo motu</i> to the public at regular intervals through various means of communications including internet so that the public have minimum resort to the use of this Act to obtain information.</p> <p>(3) For the purpose of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible and comprehensible to the public.</p> <p>(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 Central or the State Public Information Officer, available free or at such cost of the medium or the print cost price as may be prescribed.</p> <p><i>Explanation—</i> For the purposes of sub-sections (3) and (4), “disseminated” means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.</p> <p>5. (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or the State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.</p> <p>(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as the Central Assistant Public Information Officer or the State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to it or to the appropriate Government:</p> <p>Provided that where an application for information or appeal is given to a Central or State Assistant Public Information Officer, a period of five days shall be added in computing the period for response specified</p>	
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<p>Request for obtaining information.</p>	<p>under sub-section (1) of section 7.</p> <p>(3) Every Central or State Public Information Officer shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.</p> <p>(4) *****</p> <p>(5) *****</p> <p>6. (1) A person who desires to obtain any information under this Act shall make a request in writing or through electronic means in English or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—</p> <p>(a) the Central or State Public Information Officer of the concerned public authority;</p> <p>(b) the Central or State Assistant Public Information Officers designated by the concerned public authority,</p> <p>specifying the particulars of the information sought by him or her:</p> <p>Provided that where such request cannot be made in writing, the Central or State Public Information Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.</p> <p>(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.</p> <p>(3) Where an application is made to a public authority requesting for an information,—</p> <p>(i) which is held by another public authority; or</p> <p>(ii) the subject matter of which is more closely connected with the functions of another public authority,</p> <p>the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:</p> <p>Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.</p>	
<p>Disposal of request.</p>	<p>7. (1) Subject the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or the State Public Information Officer on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:</p> <p>Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.</p> <p>(2) If the Central Public Information Officer or the State Public</p>	

Information Officer fails to give decision on the request for information within the period specified under sub-section (1), such Public Information Officer shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or the State Public Information Officer shall send an intimation to the person making the request, giving—

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;

(b) 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.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to sub-section (6), pay such fee as may be the prescribed.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or the State Public Information Officer shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been deemed to be rejected under sub-section (2), the Central Public Information Officer or the State Public Information Officer shall communicate to the person making the request,—

(i) the reasons for such rejection;

(ii) the period within which an appeal against such rejection may be preferred; and

<p>Exemption from disclosure of information.</p>	<p>(iii) the particulars of the appellate authority.</p> <p>(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.</p> <p>8. (1) Nothing in the foregoing sections shall compel any public authority to disclose the following:—</p> <p>(a) information which, if disclosed will prejudicially affect the sovereignty and integrity of India or the defence and security of India or relations with foreign States and which has been classified as such in pursuance of any rule or order made by the appropriate Government;</p> <p>(b) information, which has been expressly forbidden to be disclosed by any court of law or tribunal or the disclosure of which may constitute contempt of court:</p> <p>(c) legitimate trade secrets, and commercial or financial information obtained from or furnished by a third party on condition of strict confidentiality;</p> <p>(d) information the disclosure of which will lead to identification of an informer or his sources of information or which would endanger the life or safety of any person for having furnished material information useful to the Indian nation or would materially hamper investigations into crimes or other law enforcement activities;</p> <p>(e) the Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:</p> <p>Provided that the decisions of the Council of Ministers, the reasons thereof and the material on the basis of which the decisions were taken shall be made public after the decisions has been taken, and the matters is complete, or over:</p> <p>Provided further that those matters which come under the exemptions listed in this section shall not be disclosed;</p> <p>(f) information not related to operations of appropriate Government or its instrumentalities and disclosure of which would constitute a clear unwarranted invasion of privacy of an individual.</p> <p>(2) Information which cannot be denied to Parliament or Legislature of a State, as the case may be, shall not be denied to any person.</p> <p>(3) A public authority may, notwithstanding the exemptions specified in sub-section (1), allow access to information if public interest in disclosure of the information outweighs the harm to the public authority.</p> <p>(4) Subject to the provisions of clauses (a) and (e) of sub-section (1), any information relating to any occurrence, event or matter which has taken place or occurred ten years before the date on which any request is made under section 6, shall be provided to the person making the request under that section:</p>	
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<p>Grounds for rejection to access in certain cases.</p> <p>Severability.</p> <p>Third party information.</p>	<p>Provided that where any question arises to the date from which the said period of ten years has to be computed, the decision of the appropriate Government shall be final.</p> <p>9. Without prejudice to the provisions of section 8, a Central or State Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.</p> <p>10. (1) Where a request for access to information is rejected on the ground that it is in relation to information rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.</p> <p>(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or the State Public Information shall give a notice to the applicant, informing,—</p> <p>(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;</p> <p>(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;</p> <p>(c) the name and designation of the person giving the decision;</p> <p>(d) the details of the fees determined by him or her and the amount of fee which the applicant is required to deposit; and</p> <p>(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.</p> <p>11. (1) Where a public authority intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or the State Public Information Officer shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:</p> <p>Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the</p>	
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Constitution of
Central Information
Commission.

interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or the State Public Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or the State Public Information Officer shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 15 against the decision.

CHAPTER III

THE CENTRAL INFORMATION COMMISSION

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

(2) The Central Information Commission shall consist of

(a) the Central Information Commissioner; and

(b) such number of Central Deputy Information Commissioners not exceeding ten as may be deemed necessary.

(3) The Central Information Commissioner and the Central Deputy Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of —

(i) the Prime Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Lok Sabha; and

(iii) the Chief Justice of India.

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of the Opposition.

(4) The general superintendence, direction and management of the affairs of the Central Commission shall vest in the Central Information Commissioner who shall be assisted by the Central Deputy Information

Terms of office and conditions of service.

Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The Central Information Commissioner and the Central Deputy Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in the discipline of law, science and technology social service, management, journalism, mass media or administration and governance.

(7) The headquarters of the Central Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

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

Provided that the Central Government may extend the term of five years by one more year if recommended by the committee referred to in sub-section (3) of section 12:

Provided further that no Central Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Central Deputy Information Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:

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

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

(3) The Central Information Commissioner or a Central Deputy Information Commissioner, shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Central Information Commissioner or a Central Deputy Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Central Information Commissioner or a Central

Deputy Information Commissioner may be removed in the manner specified under section 14.

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

(a) the Central Information Commissioner shall be the same as that of the Chief Election Commissioner of India;

(b) the Central Deputy Information Commissioner shall be the same as that of the Election Commissioner of India:

Provided that if the Central Information Commissioner or a Central Deputy Information Commissioner, at the time of his appointment is, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Information Commissioner or a Central Deputy Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Central Information Commissioner or a Central Deputy Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Central Information Commissioner or the Central Deputy Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and the other conditions of service of the Central Information Commissioner and the Central Deputy Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Central Government shall provide the Central Information Commissioner and the Central Deputy Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the other terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

14. (1) Subject to the provisions of sub-section (3), the Central Information Commissioner or any Central Deputy Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Information Commissioner or any

Removal of
Information
Commissioner or
Deputy Information
Commissioner.

Central Deputy Information Commissioner, as the case may be, ought on such ground be removed.

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

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

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

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

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as an Central Information Commissioner or a Central Deputy Information Commissioner.

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

term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:

Provided that every State Deputy Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Information Commissioner in the manner specified in sub-section (3) of section 14A:

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

(3) The State Information Commissioner or a State Deputy Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The State Information Commissioner or a State Deputy Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the State Information Commissioner or a State Deputy Information Commissioner may be removed in the manner specified under section 14C.

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

(a) the State Information Commissioner shall be the same as that of the Election Commissioner of India:

(b) the State Deputy Information Commissioner shall be the same as that of the Chief Secretary to the State:

Provided that if the State Information Commissioner or a State Deputy Information Commissioner, at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Information Commissioner or a State Deputy Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the State Information Commissioner or a State Deputy Information Commissioner if at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Information Commissioner or the State Deputy Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries allowances and the other conditions of service of the State Information Commissioner and the State Deputy Information Commissioners shall not be varied to their disadvantage after their appointment.

(7) The State Government shall provide the State Information Commissioner and the State Deputy Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the other terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

14C. (1) Subject to the provisions of sub-section (3), the State Information Commissioner or any State Deputy Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor has, on inquiry, reported that the State Information Commissioner or any State Deputy Information Commissioner, as the case may be, ought on such ground be removed.

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

(3) Notwithstanding anything contained in sub-section (1) the Governor may .by order remove from office the State Information Commissioner or any State Deputy Information Commissioner if the Information Commissioner or a Deputy Information Commissioner, as the case may be,-

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or

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

(d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as an State Information Commissioner or a State Deputy Information Commissioner.

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

Removal of State Information Commissioner or State Deputy or State Deputy Information Commissioner.

CHAPTER III B

POWERS AND FUNCTIONS OF THE INFORMATION COMMISSIONS, APPEAL AND PENALTIES

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

(a) who has been unable to submit a request to a Central or State Public Information Officer, either by reason that no such officer has been appointed under this Act, or because the Central or the State Assistant Public Information Officer has refused to accept his or her application for forwarding the same to the public authority or the appropriate Government;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

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

(3) The Central Information Commission or the State Information Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

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

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act, of Parliament or the State Legislature, as the case may be, the Central Information Commission or the State Information Commission may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

16. (1) Any person who, does not receive a decision within the time specified

Powers and functions of Central or State Information Commissions.

Appeal.

in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or the State Public Information Officer as the case may be in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or, as the case may be the State Information Commission:

Provided that the Central or the State Information Commission may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred against an order made by the Central or the State Public Information Officer under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(4) If the decision of the Central or the State Public Information Officer against which an appeal is preferred relates to information of a third party, the Central Information Commission or, as the case may be, the State Information Commission shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the public authority which denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central or State Information Commission shall be binding.

(8) In its decision, the Central or State Information Commission has the power to,—

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Central or a State Public Information Officer;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for

<p>19 of 1923</p>	<p>its officials;</p> <p>(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;</p> <p>(b) require the public authority to compensate the complainant for any loss or other detriment suffered;</p> <p>(c) impose any of the penalties provided under this Act;</p> <p>(d) reject the application.</p> <p>(9) The Central or the State Information Commission shall give notice of its decision, including any right of appeal, to the complainant and the public authority.</p> <p>(10) The Central or the State Information Commission shall decide the appeal in accordance with such procedure as may be prescribed.</p> <p>(11) An appeal against the decision of the Central or the State Information Commission shall lie in the High Court on any point of fact and law.</p> <p>17. (1) Notwithstanding anything contained in section 20, where the Central Commission or the State Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central or the State Public Information Officer or the State Public Information Officer, as the case may be has *** failed to provide information without any reasonable cause, within the period specified under sub-section (1) of section 7, the burden of proving that he acted reasonably and diligently shall be upon him, the Central Commission or the State Commission shall * * * * * file a complaint against such Central or State Public Information Officer or State Public Information Officer, before a Judicial Magistrate of First Class.</p> <p>(2) Any Central or State Public Information Officer or State Public Information Officer, as the case may be, who is in default under sub-section (1) shall be liable on conviction to fine which may extend to rupees twenty-five thousand or a term of imprisonment which may extend to five years, or with both.</p> <p>(3) Without prejudice to the provisions of sub-sections (1) and (2) the Central Commission or the State Commission, as the case may be may recommend for disciplinary action against the Central Public Information Officer under the service rules applicable to him.</p> <p style="text-align: center;">CHAPTER IV MISCELLANEOUS</p> <p>18. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.</p> <p>19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p> <p>20. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in</p>	<p>Penalties.</p> <p>Protection of action taken in good faith.</p> <p>Act to have overriding effect.</p> <p>Bar of Jurisdiction of courts.</p>
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	<p>question otherwise than by way of an appeal under this Act.</p> <p>21.<i>(1)</i> Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being t organisations established by the Central Government or any information furnished by such organisations to that Government: Provided that the information pertaining to the allegations of violation of human rights or corruption shall not be excluded under this sub-section.</p> <p><i>(2)</i> The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.</p> <p><i>(3)</i> Every notification issued under sub-section (2) shall be laid before each House of Parliament.</p> <p><i>(4)</i> Nothing contained in this Act shall apply to such intelligence and security organisations which may be specified, by a notification in the Official Gazette, by a State Government from time to time.</p> <p><i>(5)</i> Every notification issued under sub-section (4) shall be laid before the State Legislature.</p> <p>22. <i>(1)</i> The Central Information Commission or the State Information Commission. as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the Central Government or the State Government.</p> <p><i>(2)</i> Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or the State Information Commission as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.</p> <p><i>(3)</i> Each report shall state in respect of the year to which the report relates:</p> <p><i>(a)</i> the number of requests made to each public authority;</p> <p><i>(b)</i> the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;</p> <p><i>(c)</i> the number of appeals referred to the Central Information Commission or, as the case may be, the State Information Commission for review, the nature of the appeals and the outcome of the appeals;</p> <p><i>(d)</i> particulars of any disciplinary action taken against any officer in respect of the administration of this Act;</p> <p><i>(e)</i> the amount of charges collected by each public authority under this Act;</p>	<p>Act not to apply to certain organisations.</p> <p>Monitoring and reporting.</p>
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(f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act:

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

(4) The Central Government or the State Government may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission referred to sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

(5) If it appears to the Central Information or the State Information Commission that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

23. (1) The appropriate Government may, to the extent of availability of financial and other resources; -

(a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;

(b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;

(c) promote timely and effective dissemination of accurate information by public authorities about their activities: and

(d) train Central Information Officers or State Information Officers of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include

(a) the objects of this Act;

(b) the postal and street address the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or the State Public Information Officer of every public authority appointed under sub-section (1) of section 5;

(c) the manner and the form in which request for access to an information

Appropriate Government to prepare programmes.

	<p>shall be made to a public authority;</p> <p>(d) the assistance available from and the duties of the Central Public Information Officer or the State Public Information Officers of a public authority under this Act;</p> <p>(e) the assistance available from the Central Information Commission or the State Information Commission;</p> <p>(f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Central Information Commission or, as the case may be, the State Information Commission;</p> <p>(g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;</p> <p>(h) the notices regarding fees to be paid in relation to requests for access to an information; and</p> <p>(i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.</p> <p>(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.</p> <p>24. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:</p> <p>(a) intervals at which matters referred to in sub-clauses (i) to (xvii) of clause (b) of sub-section (1) of section 4 shall be published;</p> <p>(b) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;</p> <p>(c) the fee payable under sub-section (1) of section 6;</p> <p>(d) the fee payable under sub-sections (1) and (5) of section 7;</p> <p>(e) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (7) of section 13;</p> <p>(f) the procedure to be adopted by the Commission in deciding the appeals under sub-section (10) of section 16; and (g) any other matter which is required to be, or may be, prescribed.</p> <p>25. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act,</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters. namely:</p> <p>(i) intervals at which matters referred to in sub-clauses (i) to (xvii) of clause (b) of sub-section (1) of section 4 shall be published:</p> <p>(ii) the cost of the medium or point cost price of the materials to be</p>	<p>Power to make rules by appropriate Government.</p> <p>Power to make rules by competent authority.</p>
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<p>5 of 2003</p>	<p>disseminated under sub-section (4) of section 4;</p> <p>(iii) the fee payable under sub-section (1) of section 6;</p> <p>(iv) the fee payable under sub-section (1) of section 7; and</p> <p>(v) any other matter which is required to be, or may be, prescribed.</p> <p>26. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised of one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> <p>(2) Every rule made under this Act shall as soon as may be after it is made be laid before each House of the State Legislature where there are two Houses and where there is one House of the State Legislature before that House.</p> <p>27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.</p> <p>(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.</p> <p>28. The Freedom of Information Act, 2002 is hereby repealed.</p>	<p>Laying of rules.</p> <p>Power to remove difficulties.</p> <p>Repeal.</p>
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THE FIRST SCHEDULE

[See sub-section (3) of section 13 and sub-section
(3) of section 14B]

Form of oath or affirmation to be made by the Central Information Commissioner/ State Information Commissioner or the Central Deputy Information Commissioner/State Deputy Information Commissioner

“I, having been appointed Central Information Commissioner/State Information Commissioner/Central Deputy Information Commissioner/State Deputy Information Commissioner swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the

Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”

THE SECOND SCHEDULE

(See section 21)

INTELLIGENCE AND SECURITY ORGANISATION ESTABLISHED BY THE CENTRAL GOVERNMENT

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.- CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

STATEMENT OF OBJECTS AND REASONS

In order to ensure greater and more effective access to information, the Government resolved that the Freedom of Information Act, 2002 enacted by the Parliament needs to be made more progressive, participatory and meaningful. The National Advisory Council deliberated on the issue and suggested certain important changes to be incorporated in the existing Act to ensure smoother and greater access to information. The Government examined the suggestions made by the National Advisory Council and others and decided to make a number of changes in the law.

The important changes proposed to be incorporated, *inter alia*, include establishment of an appellate machinery with investigating powers to review decisions of the Public Information Officers; penal provisions for failure to provide information as per law; provisions to ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions, and effective mechanism for access to information and disclosure by authorities, etc. In view of significant changes proposed in the existing Act, the Government also decided to repeal the Freedom of Information Act, 2002. The proposed legislation will provide an effective framework for effectuating the right of information recognized under Article 19 of the Constitution of India.

The Bill seeks to achieve the above objects.

NEW DELHI;

SURESH PACHOURI

The 18th December, 2004

NOTES ON CLAUSES

Clause 1 deals with the short title, extent and the commencement of the legislation. The legislation will come into force on the one hundred and twentieth day of its assent by the President.

Clause 2 defines various words and expressions used in the Bill.

Clause 3 seeks to confer on the citizens a right of access to information held by public authorities.

Clause 4 seeks to entrust a duty on every public authority to maintain records and publish manuals rules, regulations, instructions, etc. in its possession.

Clause 5 provides for designation of Public Information Officers and Assistant Public Information Officers.

Clause 6 specifies the manner in which requests may be made by a citizen to the authority for obtaining the information. It also provides for transferring the request to the other concerned public authority who may hold the information.

Clause 7 lays down specific time limit within which a public authority shall provide information and the fees to be paid for processing the request and for providing the information.

Clause 8 deals with various categories of information which shall be exempted from disclosure.

Clause 9 empowers the Public Information Officer to reject a request for information where an infringement of a copyright subsisting in a person would be involved.

Clause 10 enables the public authority to sever and provide partial information which falls partly under the exempted categories and partly under the non-exempted categories.

Clause 11 provides for consultation with the third party where the request relates to or has been supplied by a third party and has been treated as confidential by that party.

Clauses 12 to 15 provides for constitution of Central Information Commission, the terms and conditions of service and the powers of the Information Commissioners and the Deputy Information Commissioners.

Clause 16 seeks to provide for first and second appeals, the first appeal lies with the officer senior in rank to the Public Information Officer and the second appeal may be made to the Commission.

Clause 17 provides for imposition of penalty on a Public Information Officer for persistently failing to provide information without any reasonable cause within the specified period. The Commission may authorise any officer of the Central Government to file a complaint against such Public Information Officer before a Judicial Magistrate and on conviction, a penalty upto rupees twenty five thousand, or an imprisonment upto five years, or both, may be imposed.

Clause 18 bars the institution of legal proceedings against any person for things done in good faith under the Act.

Clause 19 seeks to make the legislation overriding in character so that the scheme is not subverted through the operation of other enactment.

Clause 20 seeks to bar the jurisdiction of the subordinate courts.

Clause 21 seeks to exempt certain intelligence and security organisations from the purview of the legislation but information pertaining to allegation of corruption, shall, without prejudice to the exemption, be provided.

Clause 22 provides for preparation of an annual report by the Commission and laying of such report by the Central Government before each House of Parliament.

Clause 23 seeks to cast an obligation on the Central Government to develop and promote schemes for advancement of the information regime.

Clause 24 seeks to empower the Central Government to make rules so as to carry out the provisions of the legislation.

Clause 25 seeks to empower the competent authority to make rules so as to carry out the provisions of the legislation.

Clause 26 seeks to require the Central Government to lay the rules before each House of Parliament.

Clause 27 empowers the Central Government to remove difficulties in giving effect to the provision of the legislation within a period of two years from the commencement of the legislation.

Clause 28 seeks to repeal the Freedom of Information Act, 2002.

FINANCIAL MEMORANDUM

1. Sub-clauses (1) and 2 of clause 12 provide for constituting the Central Information Commission which shall consist of a Information Commissioner and such number of Deputy Information Commissioners, not exceeding ten, as may be deemed necessary.
2. Sub-clause (7) of clause 13 provides for appointment of officers and employees for assisting the Information Commissioner and the Deputy Information Commissioners as may be necessary for the efficient performance of their functions under the Act.
3. An estimated recurring expenditure of rupees one crore eighty-six lakhs is likely to be incurred on the salaries of the Information Commissioner, Deputy Information Commissioners and other officers and employees of the Commission.
4. At this stage, it is not possible to give precise details of the expenditure to be incurred on material resources in terms of office accommodation, vehicles, telephones and other office equipments required by the Commission. Adequate provisions will have to be made in the annual grants of the Commission to meet this expenditure.
5. The Bill does not involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 21 of the Bill empowers the Central Government, by notification in the Official Gazette, to amend the Schedule for including any other intelligence or security organisation established by the Central Government or omit therefrom any organisation already specified therein.

Clause 24 of the Bill empowers the Central Government to make rules to carry out the provisions of the Act. Sub-clause (2) of that clause enumerates the matter with respect to which rules may be made under this clause.

These matters relate to, *inter alia*, the publishing of particulars of public authority, functions and duties of its officers, details of facilities available to citizens for obtaining information, fee payable to obtain an information from a public authority, salaries and allowances payable to and the terms and conditions of service of the officers and other employees, procedure for disposal of appeals and the authority before whom an appeal may be preferred against the decision of Public Information Officer.

Clause 25 of the Bill empowers the competent authority to make rules to carry out the provisions of the Act. These matters relate to, *inter alia* the fee payable for obtaining the information from the Public Information Officer of a public authority; the appellate authority before whom an appeal may be preferred against the decision of the Public Information Officer and the procedure to be adopted by the Commission in deciding the appeals.

Clause 27 of the Bill empowers the Central Government by order to remove certain difficulties which may appear to it to be necessary or expedient in giving effect to the provisions of the Act with in a period of two years from the commencement of the Act.

The matters in respect of which rules and the order may be made are matters of administrative details and procedure and it is not practicable to make provisions for them in the Bill. The delegation of legislative power is, therefore, of a normal character.

LIST OF WITNESSES WHO APPEARED BEFORE THE COMMITTEE

Sl. No.	Name of Witnesses	Dates of hearing
1.	Shri A.N. Tiwari, Secretary, Ministry of Personnel, Public Grievances and Pensions	1.2.05, 1.3.05, 2.3.05
2.	Representatives of Ministry of Law and Justice	1.2.05; 1.3.05, 2.3.05
	(i) Shri T.K. Viswanathan, Secretary, Legislative Department	
	(ii) Shri R.L. Meena, Secretary, Department of Legal Affairs	
	(iii) Shri K.D. Singh, Additional Secretary, Department of Legal Affairs	1.3.05, 2.3.05
3.	Representatives of Mazdoor Kisan Shakti Sangathan (MKSS);	14.2.05
	(i) Smt. Aruna Roy, and	
	(ii) Shri Nikhil Dey	
4.	Dr. Jean Dreze, Professor, Centre for Development Economics, Delhi School of Economics.	14.2.05
5.	Representatives of National Campaign for People's Right to Information (NCPRI)	14.2.05
	(i) Ms. Angela Rangad, and	
	(ii) Shri Shekhar Singh	
6.	Sh. Prakash Kardaley, Social Activist; and	14.2.05
7.	Sh. Anna Hazare, Social Activist	14.2.05
8.	Shri Shailesh Gandhi, Fellow, Indian Institute of Management, Ahmedabad	14.2.05
9.	Representatives of the Commonwealth Human Rights Initiative (CHRI), Delhi	14.2.05, 16.2.05
	(i) Smt. Maja Daruwala, Director,	
	(ii) Ms. Charmaine Rodridge, and	
	(iii) Shri Venkatesh Nayak	
10.	Dr. Jayaprakash Narayan, Representative of the Non-Governmental Organisation 'Lok Satta'	14.2.05
11.	Shri Arvind Kezriwal, Representative of the Non-Governmental Organisation 'Parivartan'	14.2.05
12.	Shri Shanti Bhushan, Senior Counsel, Supreme Court of India	14.2.05
13.	Shri Prakash Bhushan, Advocate, SC	14.2.05
14.	Shri Harsh Mander, Civil Servant	14.2.05