

# **Right to Information Act, 2005 –Provision of the Act per se**

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CREAT-CHRI

### **Why Right to Information?**

- Fundamental Human Right
- Key to democracy
- Creates open and transparent society
- Strengthening trust in Government
- Growth and Development
- Facilitates equitable economic growth
- Aids in challenging corruption
- Bolstering media capacity

### **Basic Facts**

- Title of the Acts:  
-Right to Information Act, 2005  
(Act No. 22 of 2005)  
Passed by the Lok Sabha on 11<sup>th</sup> May 2005  
Received the assent of the President of India on 15<sup>th</sup> June 2005  
Notified in the Gazette on 21<sup>st</sup> June 2005  
Some Sections came into effect immediately  
Most of the Sections came into force from 12<sup>th</sup> October 2005  
Consist of 31 Sections, and VI Chapters

### **RTI-Objectives**

- Promote transparency and Accountability
  - Contain corruption
  - Hold Government and their instrumentalities accountable
  - Establish a regime where citizens are provided with information easily
- RTI-Coverage
- To the whole of India except the State of Jammu and Kashmir
  - J & K has its own Freedom of Information Act,2004
  - Offices owned, established or substantially financed by Central/State Government
  - Administration of Union Territories
  - Panchayats, Municipalities and other Local bodies and
  - Non-Governmental Organizations substantially financed by the Central/State Governments
  - **Information relating to a private body accessed by public Authority under RTI**

### **What is Information ?**

- Any material in any form (*Record, documents, memos, e-mails, opinions, advices, press release, circulars, orders, logbook, contracts, reports, papers, samples, models, data material*)

- Relating to any private body
- Can be accessed by a public authority

### **What is Right to Information?**

- Inspection of work, documents & records
- Taking notes, extracts or certified copies of documents or records
- Taking certified samples of material
- Obtaining information in the form of diskettes, floppies, tapes, video etc.

### **Who gives the Information?**

- The public Information Officer
- The Assistant public Information Officer

### **How Information is given?**

- By pro-active disclosure by Public Authorities
- **On submission of Application by the citizens**

### **Obligation of Public Authorities**

- To maintain records duly catalogued and indexed in a manner and the form which facilitates right to information under the Act
- To publish certain information (within 120 days from the date of the Act coming into force).

### **What needs to be published?**

- Particulars of the organization, functions and duties
- Powers and duties of officials
- Procedure followed in decision making
- Norms set for discharge of its functions
- Rules, regulations, manuals etc. held by it
- Statement of documents held
- Mechanism for consultation with public
- Details of boards, councils, committees etc
- Directory of officers/employees & monthly remuneration received
- Budget allocated and execution of subsidy program
- Particulars of recipients of concessions etc
- Details of information held in electronic form
- Facilities available to citizens for obtaining information
- Details of Public Information Officers
- All relevant facts while formulating important policies or announcing decisions affecting the Public
- Provide reasons for its decisions to affected persons

### **How to access information?**

- Request to be made in writing on electronic form to the Central/State PIO or APIO
- No reason to be given by the applicant for requesting the information
- No personal details except that necessary to contact the applicant

### **Application Process:**

*What it costs to obtain information?*

- Application fee of Rs.10 – by way of cash, DD or bankers Cheque
- Rs. 2 for each page (A4 or A3 size) created or copies
- Actual in case of large size paper
- Actual cost for samples/modules

For inspection of records:

*No fee for first one hour*

*Rs.5 for each fifteen minutes thereafter*

For information in Diskette or floppy:

*Rs50 per diskette or floppy*

For information in printed form at the price fixed Rs.2 per page of photocopy for extracts from the publication

**If application is accepted**

- Receive the application
- Acknowledgement
- Intimate the fees to be remitted
- Furnish information within 30 days

**If information is with another PIO**

- In case the requested information is held by another public authority, the application shall be transferred
- Inform the applicant about transfer
- Transfer to be done as early as possible and in no case later than 5 days from date of receipt of request

**Time limit for supply of information**

- Within 30 days on payment of fees
- Provide information or reject
- Within 48 hours if information concerns life or liberty of a person
- **If no reply or information is received as above, it is presumed to have been rejected if application is rejected**
- Intimate the reasons for rejection
- The appeal process
- Time limit for appeal

**How 30 days is calculated?**

- The period intervening between the dispatch of the intimation and payment of fees shall be excluded
- **Intimation should also contain the procedure for appeals, time limit, process etc**

**Exemption from payment of Fees**

- No fee to be collected from persons who are of below poverty line
- Applicant should prove by way of a certificate/document that he belongs to BPL
- No fee if the Public Authority fails to comply with the time limits

### **What will not be disclosed?**

- Affecting Sovereignty and integrity of India
- Forbidden by any Court of Law
- Would cause breach of privilege
- Trade secrets, IPRs etc
- Information available in judiciary position  
*(Public interest excluded)*
- Received in confidence from foreign Govt.
- Endanger life or physical safety
- Impede process of investigation
- Cabinet papers (decision made shall be made public)
- Unwarranted invasion of privacy of a person
- *If the larger public interest justifies, disclosure can be made*
- *Information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person*

### **Third Party information**

- Notice to third party within 5 days of receipt of request
- Invite third party to make a submission
- Information allowed if public interest in disclosure outweighs in importance any harm to third party
- Within 40 days after receipt

### **Who monitors RTI?**

- Central Chief Information Commissioner
- Central Information Commissioners(10)
- State Chief Information Commissioners
- State Information Commissioners(10)

### **Functions of the Information Commission**

- Receive and inquire into complaints
  - Refusal of information
  - No response from PIO/APIO
  - About unreasonable fees
  - Incomplete/misleading information
  - Other complaints from applicants
- Secure compliance
  - By providing information
  - By appointing PIOs
  - By publishing certain information
  - By making necessary changes
- Training on RTI to officials
- Annual report
- Impose penalties
- Require Public Authority to compensate
- Reject the application

### **First Appeal Process**

- Appeal to the senior officer to PIO
  - When aggrieved by his decision
  - Within 30 days from expiry of such period or from the date of receipt of such decision
  - To be finalized within 30 days of the order

### **Second Appeal Process**

- With the Central or State Information Commissioner
- To be appealed within 90 days from the date on which the decision should have been made
- Or was actually made
- To be disposed off < 30-40 days

### **Penalty for violation**

- Penalty can levied for
  - Malafide denial of information
  - Incorrect/incomplete/Misleading information
  - Destroying information
  - Penalty of Rs.250 per day till the information is furnished
  - Maximum penalty is Rs.25000

### **Jurisdiction of the Courts**

- Courts are barred from entertaining suits or applications against any order made under this Act
- Appeal lie only in High Court or Supreme Court under Article 32 and 225 of the Constitution

### **Application Format**

- Full name of the Applicant
- Address
- Details of the document/inspection Samples required
- Year to which the above pertains
- Designation & Address of the Public Information Office from whom the information is required

Place:

Date:

Signature

**ACTIVITY CHART FOR CENTRAL/STATE PUBLIC INFORMATION OFFICES**

SI. No.	Activity	Section Under RTI	Time Frame
1.	Receiving application and acknowledging it	6 (1)	
2.	Give a reference number and scrutinize the application		
3.	Transfer the application or part thereof to other Public Authority if it does not pertain to you	6 (3)	5 days
4.	Find out whether any exemption is applicable	8.9&24	
5.	If the information sought falls under any exemption, send the rejection order with reasons and the details of appeal	7 (8)	
6.	Find out whether the information pertains to life and liberty	7 (1)	
7.	If so, collect the information and dispose off the application by providing the same	7 (1)	48 Hrs
8.	Find out whether further fee is required to be remitted by the applicant	7(3) (a)	
9.	Send intimation to the applicant about the fee to be paid along with details of its working and also mention the applicant's right to review the decision	7 (3) (a) (b)	
10.	If the information sought is not covered under exemption, take action to collect information and dispose off the application	7 (1)	30 days
11.	If need be seek the services of other officers in collecting information. Remember these officers are also PIOs in the eyes of RTI Act 2005	5 (4) 5(5)	
12.	If the information relates to Third Parties, issue notice to the Third Party	11 (1)	Within 5 Days
13.	Give opportunity to make representation orally or in writing to third party after receipt of notice	11(2)	Within 10 days
14.	Dispose or request	11(3)	40 days
15.	Intimate the applicant about the right to appeal	11(4)	

## **FRAME WORK OF THE RIGHT TO INFORMATION ACT, 2005**

1. Purpose and Scope of the Act
2. Receipt of application and Role of Information Officers
3. Obligations of Public Authorities towards Information keeping and Dissemination
4. Access to Information
5. Third Party Information
6. Appeal Procedure
7. Exemption from Disclosure of Information
8. Exemption to Intelligence and Security Organizations
9. Severability
10. The Central Information Commission
11. The State Information Commission
12. Powers and Functions Commission
13. Penalties
14. power to Make Rules by Central/State Government
15. Education and Training Program
16. Miscellaneous

For more details on RTI, you may contact

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