

Right to Information Act, 2005 – A Primer

1. When this Act comes into force

It comes into force on the 12th October, 2005, though received the assent of President on 15th June, 2005.

2. Which provisions have come into force with immediate effect

- a) Obligations of public authorities - [Section 4(1)]
- b) Destination of public information officers - [Section 5(1) and 5(2)]
- c) Constitution of central information commission - (Section 12 and 13)
- d) Constitution of state information commission - (Section 15 and 16)
- e) Non applicability of the act to Intelligence and Security Organization - (Section 24)
- f) Power to make Rules - (Section 27 and 28)

3. Applicability

It extends to whole of India except Jammu and Kashmir - [Section 1(2)]

4. What does information mean - (Section 2(f))

It means any material in any form including records, memos, e-mails, opinion, advises, press release, circulars, orders, log-book, contracts, reports, papers, samples, models, data materials in any electronic form but does not include “file noting” specified in point 11.

5. What does right to information mean - (Section 2j)

It includes the right to-

- a) inspect works, documents, records
- b) take notes, extracts or certified copies of documents or records
- c) take certified sample of materials
- d) obtain information of print out, diskettes, floppies, tapes, video cassettes or in any other electronic mode.

6. Who can apply for information - (Section 3)

Any person who is a citizen can apply for information regardless age, gender or location within the Union of India.

7. Application procedure for requesting information - (Section 6)

- i) Written application or electronic means in English, Hindi or official languages of the area to the PIO specifying the particulars of the information sought for.
- ii) Reason for seeking information not required to be given.
- iii) Pay fees as may prescribed (if not belonging to the below of poverty line) but not exceeding the cost of making the copy of information sought and Rs.10 towards the administrative cost per request for information sought. - [Section 7(1) and 7(5)]

8. To whom the application be made - (Section 6)

- i) The Central Public Information Officer or State Public Information Officer.
- ii) The Central Assistant Public Information Officer or State Assistant Public Information Officer.

9. Time limit for getting the information - [Section 7(1)]

- i) 30 days from the date of application
- ii) 48 hours concerning the life and liberty of a person
- iii) If relates to third party then time limit will be 40 days - (maximum period plus time given to the Party to make representation - (Section 11)

10. Grounds of rejection of application - [Section 7(8)]

- i) If it is covered by exemption from disclosure - (Section 8)
- ii) If it infringes copy right of any person other than the state - (Section 9)
Exceeding the time limit for providing information as prescribed amounts to refusal.

11. What is not open to disclosure - (Section 8)

- The following are exempted from disclosure:
- i) Information, disclosure of which would

prejudicially affect the sovereignty and integrity of India, the society, strategic, scientific or economic interests of the state relation with foreign state or lead to incitement of an offence.

- ii) 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.
- iii) Information, the disclosure of which would come a breach privilege of parliament or the State legislature.
- iv) 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.
- v) Information available to a person in this fiduciary relationship, unless the competent authority is satisfied that the large interest warrants the disclosure of such information.
- vi) Information received in confidence from foreign Government.
- vii) Information, the disclosure of which would endanger the life physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.
- viii) Information which would impede the process of investigation or apprehension or prosecution of offenders.
- ix) Cabinet papers including records, of deliberation of the Council of Ministers, Secretaries and other officers.
- x) 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.
- xi) Notwithstanding any of the exemptions listed above, a public authority may allow access to information, if public interest is disclosed outweighs the harm to the protected interests.

12. How far the Official Secret Act, 1923 will cease to operate - (Section 22)

The official Secret Act, 1923 and every other act shall remain in force in the statute book but shall cease to operate to the extent to which they are inconsistent with the provisions of this Act.

13. Whether it extends to Companies Act, 1956

The Companies Act, 1956 itself has provided certain information to be given to public for general information such as section 53, 54, 60B, 61, 63, 64, 118, 136, 197, 222, 223, 305, 306, 307, 308, 392, 424J, 461, 485, 488, 489, 548, 549, 550, 551, 610, 615, 627 and 628.

14. Whether it extends to Income Tax Act, 1961

It does not extend to the privacy and secrecy of the third party because the request relates to information which is unwarranted invasion of the privacy of any person. This law is restrictive taking into consideration of the interest of the third parties in trade and commerce information.

15. Is partial disclosure allowed

Only that part of the record which does not contain any information which is exempt from disclosure and which can reasonably be severed from any part that contains exempt information, may be provided - (Section 10).

16. Obligations of Public Authorities - (Section 4)

Every public authority shall-

- i) Maintain all its records
- ii) Publish within 120 days from enactment of this Act, the details of its office organizations rules, regulations instructions, manuals, its Boards, councils, committees, directory of its officers and employees, budget allocation, particulars of recipients of concessions, permits, facilities available to citizen etc.
- iii) Provide information through publication scheme
- iv) Provide in response to request made under the general right to excess.

17. Who is excluded - (Section 24)

Central intelligence and Security agencies specified in the Second Schedule like IB,

LAW, Directors of Revenue Intelligence, Central Economic Intelligence Bureau, Directors of Enforcement, Narcotics, Council Bureau, Aviation Research Centre, Special Frontier Force, BSF, ITBP, CIFS, NSG, Assam Rifles, Special Service Bureau, Special Branch (CID) Andaman and Nicobar, The Crime Branch CID CB, Dadra and Nagar Haveli and Special Branch, Lakshadweep police.

Agency specified by the state government through a notification will also be excluded. The exclusion, however, is not absolute and these organizations are under an obligation to provide information pertaining to allegation of corruption and human rights violations. Further information relating to allegation of human rights violation could be given but only with the approval of the Central or State Information Commission as the case may be.

18. What is the role of Central/State Government - (Section 26)

- i) Develop educational programmes for the public specially disadvantaged communities on RTI.
- ii) Encourage Public Authorities to participate in the development and organization of such program.
- iii) Promote timely dissemination of accurate information to public.
- iv) Train officers and develop training materials
- v) Compile and disseminate a User Guide for the public in the respective official language
- vi) Publish names, destination, postal address and contact details of PIOs and other information such as notices regarding fees to be paid remedies available in law if request is rejected etc - (Section 26).

19. Who has the rule making power - (Section 27 and 28)

Central government, State government and the competent authority as defined in section 2(c) are vested with powers to make rules to carry out the provisions of the Right to Information Act, 2005.

20. Who has the power to deal with the difficulties while implementing this Act - (Section 30)

If any difficulty arises in giving effect to the provisions in the Act. The Central Government may, by order published in the official Gazette, make provisions necessary/expedient for removing the difficulty.

21. Whether appealable against refusal - (Section 19)

Refusal or deemed refusal of application is appealable before Central Information Commission.

First Appeal : First appeal to the officer senior in rank to the PIO within 30 days from the expiry of the time limit or from the date of receipt of the decision.

Second Appeal : To Central Information Commission or State Information Commission within 90 days of the receipt of the order of First Appeal.

Third Party Appeal : Against PIO's decision within 30 days before first Appeal Authority and within 90 days of the decision on the first appeal before appropriate Information Commission.

22. Penalty for non-furnishing of information - (Section 20)

Errant PIO will be liable to fine Rs. 250 per day but not exceeding Rs. 25,000 for

- i) Not accepting an application
- ii) Delaying information without reasonable cause
- iii) Malafidely denying
- iv) Giving incorrect, incomplete and misleading information
- v) Destroying the information that has been requested
- vi) Obstructing furnishing of information in any manner

23. Bar of jurisdiction of courts - (Section 23)

No court shall entertain any suit application or other proceedings 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. However, the writ jurisdiction under Articles 32 and 225 of the constitution remain unaffected. □