

DRAFT MODEL INTER-AMERICAN LAW ON ACCESS TO INFORMATION
[AG/RES. 2514 (XXXIX-O/09)]

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RECALLING:

Article 13 of the American Convention on Human Rights;

The Inter-American Commission on Human Rights' Inter-American Declaration of Principles on Freedom of Expression;

The Declaration of Nuevo Leon;

The Inter-American Court of Human Rights' decision in *Claude Reyes v. Chile*;

The Inter-American Juridical Committee's Principles on the Right of Access to Information;

The "Recommendations on Access to Information" organized by the Department of International Law, and

CONSIDERING:

That access to information is a fundamental human right of man and an essential condition for all democratic societies;

That right of access to information applies broadly to all information in possession of public authorities, including all information which is held or recorded in any format or medium;

That the right of access to information is based on the principle of maximum disclosure;

That exemptions to the right to access should be clearly and narrowly established by law;

That even in the absence of a specific request, public bodies should disseminate information about their functions on a routine and proactive basis and in a manner that assures that the information is accessible and understandable;

That the process of requesting information should be regulated by clear, fair and non-discriminatory rules which set clear and reasonable timelines, provide for assistance to those requesting information, assure that access is free or limited to the cost of reproduction of records and require specific grounds for the refusal of access;

That individuals should be afforded the right to bring an appeal against any refusal or obstruction to provide access to information before an administrative body, and to bring an appeal against the decisions of such administrative body before the courts;

That sanctions should be imposed against any individual who willfully denies or obstructs access to information in breach of the rules set forth in this law;

That measures should be taken to promote, implement and enforce the right of access to information in the Americas,

[Member State] agrees to the provisions of the following:

LAW ON ACCESS TO INFORMATION

I. DEFINITIONS, SCOPE AND RIGHT OF ACCESS

Definitions

1. In this Act, unless the context otherwise requires: –

- a) “Information” refers to + custody and control of public authority
- b) “Information Officer” refers to the individual or individuals appointed to the public authority pursuant to **Articles 29 and 30** of this Act;
- c) “Record” refers to any recorded information, regardless of its form, source, date of creation, or official status, whether or not it was created by the body that holds it and whether or not it is classified;
- d) “Publish” means to make available in a form generally accessible to members of the public and includes print, broadcast and electronic forms of dissemination;
- e) “Public Authority” refers to any authority or organization falling under **Article 3** of this Act;
- f) “Policy Documents” means xxx
- g) “Interested Third Parties” are persons who may have a direct interest in non-disclosure of information, either because it will either affect their privacy or their commercial interests;

Scope and Purpose

- 2. This Act establishes a broad right of access to information, in possession, custody or control of any public authority, based on the principle of maximum disclosure, so that all information held by public bodies is accessible subject to a clear and narrow regime of exceptions set out in law.
- 3. This Act applies to all public authorities, including the executive, legislative and judicial branches at all levels of government, constitutional and statutory authorities, non-state bodies which are owned or controlled by government, and organizations which operate with substantial public funds or benefits (directly or indirectly) or which perform public functions and services insofar as it applies to those funds or to the public services or functions they undertake. All of these bodies are required to make information available pursuant to the provisions of this Act.
- 4. To the extent of any inconsistency, this Act shall prevail over any other statute.

Comment: The term benefits should not be construed broadly so as to include any financial benefit received from the government.

Comment: While the model law does not contain a provision whereby private information that is required for the exercise or protection of international recognized human rights would be brought under the scope of the law, some states, including South Africa have adopted this approach.

Comment: Access requests to the legislative and judicial branches should only refer to administrative records.

Right of Access

5. Any person making a request for information to any public authority covered by this Act shall be entitled, subject only to the provisions of **Part IV** of this Act: –
 - a) to be informed whether or not the entity in question holds a record containing that information or from which that information may be derived;
 - b) if the entity does hold such a record, to have that information communicated to the requester in a timely manner;
 - c) to an appeal where access to the information is denied;
 - d) to make an anonymous request for information;
 - e) to make a request without providing justifications for why the information is requested;
 - f) to be free from discrimination based on the nature of the request; and
 - g) to be provided with the information free of charge or at a cost limited to the cost of reproduction.
6. The requester shall not be sanctioned, punished or prosecuted in response to the exercise of the right of access to information.

Interpretation

7. When interpreting a provision of this Act, everyone tasked with interpreting this Act must adopt any reasonable interpretation of the provision that best gives effect to the right to information.

II. MEASURES TO PROMOTE OPENNESS

Adoption of Publication Schemes

8. (1) Every public authority shall adopt and disseminate widely, including on its website, a publication scheme approved by the Information Commission, within [six] months of: -
- a) the coming into force of this Act; or
 - b) its establishment.
- (2) The publication scheme shall set out: -
- a) the classes of records that the authority will publish on a proactive basis; and
 - b) the manner in which it will publish these records.
- (3) In adopting a publication scheme, a public authority shall have regard to the public interest: -
- a) in allowing access to the information it holds; and
 - b) in making information available proactively so as to minimize the need for individuals to make requests for information.
- (4) Every public authority shall publish information in accordance with its approved publication scheme.

Approval of Publication Schemes

9. (1) When approving a publication scheme, the Information Commission may provide that the approval will expire at a certain point.
- (2) When refusing to approve a publication scheme, the Information Commission shall give reasons and provide reasonable direction to the public authority as to how it may amend the scheme so as to obtain approval.
- (3) The Information Commission may, upon giving [six] months notice with reasons, withdraw its approval of any publication scheme.
- (4) The publication schemes adopted by every public authority shall, within [seven] years of the adoption of the first publication scheme by that public authority in accordance with **Article 8(1)**, cover all of the key classes of information set out in **Article 11**.
- (5) The Information Commission shall take into account the need to comply with **paragraph (4)** when approving or refusing to approve a publication scheme.

Model Publication Schemes

10. (1) The Information Commission may adopt or approve model publication schemes for different classes of public authorities.

- (2) Where a public authority in a certain class adopts a model publication scheme which applies to that class of public authorities, it shall not require further approval from the Information Commission, provided that it shall inform the Information Commission that it is applying that model publication scheme.
- (3) The Information Commission may put a time limit on the validity of a model publication scheme or, upon giving [six] months notice to all public authorities using it, terminate the validity of any publication scheme.

Key Classes of Information

11. The following are the key classes of information subject to proactive disclosure by a public authority:

-
- a) a description of its organizational structure, functions, duties and the locations of its departments and agencies and their operating hours;
- b) the internal and external oversight, reporting and monitoring mechanisms relevant to the public authority including its strategic plans, corporate governance codes and key performance indicators;
- c) its budget and its expenditure plans for the fiscal year in which the budget is allocated;
- d) its procurement procedures, guidelines and policies and its contract execution and performance monitoring data;
- e) the salary scales relevant to all employee categories within the public authority (including all data related to current reclassification of posts);
- f) relevant details concerning any services it provides directly to members of the public, including customer service standards, charters and protocols;
- g) any direct request or complaints mechanisms available to members of the public regarding acts, or a failure to act, by that body, along with a summary of any requests, complaints or other direct actions by members of the public and that body's response thereto;
- h) a description of the powers and duties of its senior officers, and the procedure it follows in making decisions;
- i) any regulations, policies, rules, guidelines or manuals or other records containing interpretations, practices or precedents regarding the discharge by that public authority of its functions;
- j) the content of all decisions and/or policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material;
- k) any mechanisms or procedures by which members of the public may make representations or otherwise influence the formulation of policy or the exercise of powers by that body;

- l) a simple guide containing adequate information about its record-keeping systems, the types and forms of information it holds, the categories of information it publishes and the procedure to be followed in making a request for information; and
- m) its Disclosure Log containing actual records released under this Act, which shall be automatically available, and its Information Asset Register.

12. Special Requirement for policy documents to be publicly available: -

- a) Public authorities must make copies of each of its policy documents available for inspection;
- b) No one shall be subject to any prejudice because of the application of a policy that is not disclosed pursuant to sub-paragraph (a).

13. Public authorities shall release public information which affects a specific population in a range of languages and in alternative user-friendly formats, unless there is a good legal, policy, administrative or public interest reason not to, with applications under this Act being necessary only as a last resort.

Other Laws & Mechanisms Providing for Disclosure of Information

14. This Act does not limit the operation of another Act or administrative scheme that: -

- a) Requires information concerning records in the possession, custody or control, of government to be made available to members of the public;
- b) Enables a member of the public to access records in the possession, custody or control of government; or
- c) Requires the publication of information concerning government operations.

15. Whenever an individual makes a request for information, it should be treated at least as favorably as a request under this Act.

Information Asset Registers

16. (1) Every public authority shall create and maintain an updated Information Asset Register listing: -

- a) every category of information published by the public agency;
- b) every published record; and
- c) every record available for purchase by members of the public.

(2) The Information Commission may set standards regarding information asset registers.

- (3) Every public authority shall ensure that its Information Asset Register complies with any standard set by the commission.

Disclosure Logs

17. (1) Public authorities shall create, maintain and publish a Disclosure Log of all information released in response to a request made under this Act on its website and in the reception area of all its offices accessible by members of the public, subject to protection of privacy of the original requesting party.
- (2) The information commission may set standards regarding information disclosure logs.
- (3) Every public authority shall ensure that its disclosure logs comply with any standard set by the commission.

Previously Released Information

18. Subject only to the provisions of Part IV of this Act: –

- a) Public authorities must ensure and facilitate access to all records previously released, in the most convenient way possible, to persons requesting such information.
- b) Requests for records contained in disclosure logs shall be made available as soon as practicable electronically and no later than [three] working days after the records are sought if not in electronic form.
- c) Where a response to a request for information has been provided in electronic form, it shall be made available in proactive form on the public authority's website.
- d) In any case in which a second request is made for the same information, it should be made available proactively on the website.

III. ACCESSING INFORMATION HELD BY PUBLIC AUTHORITIES

Request for Information

19. The request for information may be filed in writing, by electronic means, orally in person, by phone, or by any alternative means, with the relevant Information Officer. In all cases, the request shall be properly logged pursuant to **Article 22** of this law.
20. Unless the information can be provided immediately, all requests shall be registered and assigned a tracking number, which shall be provided to the requester along with contact information for the information officer assigned to the request.

21. No fee shall be charged for making a request.
22. Requests for information shall be registered in the order in which they are received and handled in a fair and non-discriminatory manner.
23. (1) A request for information shall contain the following information: -
- a) contact information for the receipt of notices and delivery of the information requested;
 - b) a sufficiently precise description of the information requested, in order to allow the information to be found; and
 - c) the form in which the information should be provided.
- (2) If the form in which the information should be provided is not indicated, the information requested shall be provided in the most efficient and cost-effective manner for the public authority.
- Comment: The requester need not provide their name on the request for information. However, insofar as the request concerns personal information, the requester's name may be required.*
24. (1) The public authority in receipt of a request must reasonably interpret the scope and nature of the request.
- (2) In the event the receiving authority is uncertain as to the scope and nature of a request it must contact the requester to clarify what is being requested. The receiving authority must make reasonable efforts to assist the requester in formulating the request.
25. (1) If the receiving authority reasonably determines that it is not the proper authority to handle the request, it must, as soon as possible and in any case within [five] working days, forward the request to the proper authority for processing.
- (2) The receiving authority must also notify the requester that his/her request has been routed to another public authority for processing.
- (3) The forwarding authority must provide the requester with contact information for the information officer at the public authority where the request has been routed.¹

Third Party Response to Notification

¹ ALTERNATIVE: If the receiving public authority reasonably determines that it is not the proper authority to handle the request, it must, within [five] working days indicate the proper authority to the requester.

26. Interested third parties shall be informed within [5] days of a request being logged, and given [10] days to make written representations to the relevant authority either: -

- a) consenting to disclosure of the information; or
- b) stating reasons why the information should not be disclosed.

Cost of Reproduction

27. (1) The petitioner shall only pay for the cost of reproduction of the information requested and, if applicable, the cost of the delivery, if requested. Information provided electronically shall be free of charge.
- (2) The costs of reproduction shall not exceed the actual value of the material in which it is reproduced; delivery shall not exceed the actual value of the same service in the market. The value of the market rate, for this purpose, shall be set periodically by the Information Commission.
- (3) The entities shall provide information for free when it is requested by citizens in a special state of poverty.
- (4) The information Commission will set additional rules regarding fees that may include the possibility that information will be provided for free when it is in the overall public interest and that no charge may be levied for a minimum number of pages.

Form of Access

28. Public authorities shall facilitate access to inspection by making available facilities for such purpose.

Information Officer

29. The head of the public authority responsible for responding to requests must designate an Information Officer who shall be the focal point for implementing this law in that public authority. The contact information for each such Information Officer must be posted electronically and made readily available to the public.
30. The Information Officer shall, in addition to any obligations specifically provided for in other sections of this Act, have the following responsibilities: -
- a) to promote within the public authority the best possible practices in relation to record maintenance, archiving and disposal; and
 - b) to serve as a central contact within the public authority for receiving requests for information, for assisting individuals seeking to obtain information and for receiving individual complaints regarding the performance of the public authority to inform disclosure.

Searching for Records

31. Upon receipt of a request for information, the public authority in receipt of the request must undertake a reasonable search for records which are responsive to the request.

Maintaining Records

32. All public authorities must preserve any record which reflects the business of the public authority.

Comment: The model law could reference records disposition schedules or refer the bodies to the entity that establishes records retention policies. A different definition of what needs to be maintained could be included. A time limit for the maintenance of records should be considered for a reasonable period as established by law.

Missing Information

33. When a public authority is unable to locate information responsive to a request, and records containing that information should have been maintained, it is required to make reasonable efforts to gather the missing information and provide it to the requester.

Standard Time to Respond

34. (1) Each public authority must respond to a request as soon as possible and in any event, within [twenty] working days of its receipt.
- (2) In the event the request was routed to the public authority from another authority, the date of receipt shall be the date the proper authority received the request, but in no event shall that date exceed [ten] working days from the date the request was first received by a public authority designated to receive requests.

Extension of Response Period

35. (1) Where necessary because of: i) the need to search for or review voluminous records, ii) the need to search offices physically separated from the receiving office, or iii) the need to consult with other public or private authorities prior to reaching a disclosure determination, the public authority processing the request may extend the time period to respond to the request by up to [twenty] working days.
- (2) In any event, the failure of the public authority to complete the processing of the request within [twenty] working days, or, if the conditions specified in **paragraph 1** are met, the failure to respond to the request within [forty] working days, shall be deemed a denial of the request.
- (3) In highly exceptional cases, involving large amounts of information, the public authority may appeal to the information commission for an extension beyond [forty] working days.

- (4) Where a public authority fails to meet the standards of this article, no charge should be imposed for providing the information, and any denial or redaction must be specifically approved by the information commission.

36. In no case may the notification of a third party excuse the public authority from complying with the time periods established in this law.

Notice to the Requester

37. As soon as the public authority has reasonable grounds to believe that satisfaction of a request will either incur charges above a level set by the information commission or take longer than [twenty] working days, it shall inform the requester and give him/her the opportunity to narrow or modify the scope of the request.

38. (1) Public authorities shall provide access in the form requested, unless this would: -

- a) harm the record;
- b) breach copyright; or
- c) be impractical because of the need to redact some information contained in the record, pursuant to **Section IV** of this Act.

(2) Where information requested in electronic format is already available on the internet, the public authority may simply indicate to the requester the exact URL at which they may access the information.

39. (1) Where information is provided to the requester, he/she shall be notified and informed as relevant of any applicable fees and/or arrangements for access.

(2) In the event that any information or part of the information is withheld from a requester because it falls within the regime of exceptions to disclosure under **Section IV** of this Act, the requester must be given: -

- a) a reasonable estimate of the volume of material that is being withheld;
- b) a description of the precise provisions of this law used for the withholding; and
- c) notification of the right to appeal.

IV. EXCEPTIONS

Exceptions from Disclosure

40. Public authorities may deny requests for information only in the following circumstances: -

a) Allowing access would harm the following individual interests: -

1. right to privacy;
2. right to life, health, or safety; or,
3. commercial and economic interests, where the information was provided by that person in confidence.

Exceptions in this sub-paragraph do not apply when the individual has consented to its disclosure or where it was clear when the information was provided that it was part of a class of information that was subject to disclosure.

The exception under sub-paragraph (a) 1 does not apply to the official activities of a public official or when a person is deceased for over 20 years.

b) Allowing access would harm the following public interests: -

1. national security;
2. public safety;
3. testing and auditing procedures;
4. free and frank provision of advice;
5. effective formulation or development of policy;
6. international relations;
7. prevention, investigation and prosecution of crime;
8. protection of the due process rights and equality of parties in ongoing court proceedings;
9. effective administration of justice;
10. ability of the State to manage the economy; and
11. legitimate financial interest of a public authority.

The exceptions under sub-paragraphs (b) 3, 4 and 5, do not apply to facts, analysis of facts, technical data or statistical information.

The exception under sub-paragraph (b) 5 does not apply once the policy has been enacted.

c) Allowing access would constitute an actionable breach of confidence in communication between private parties, including legally privileged information.

Comment: Although the Inter-American system provides for a potential exemption for the protection of “public order” it is explicitly rejected as a grounds for refusing access in the present Model as it is overly vague and provides for an overbroad application as an exemption.

Comment: Application of the exemptions provided for under Article 40 must be based on the strictest interpretation of the instruments and jurisprudence of the Inter-American system.

Partial Disclosure

41. For circumstances in which the totality of the information contained in a record is not exempted by an exemption in Article 40, protected information may be redacted. Information not exempted from disclosure in a same record, however, must be delivered to the requesting party and made available to the public.

Historical Disclosure

42. The exceptions under Article 40 (b) [Public Interests] do not apply to a record that is more than [12] years old. Where a public authority wishes to reserve the information from disclosure, this period can be extended for another [12] years only by approval by the information commission.

Public Interest Override

43. Public Authorities may not refuse to indicate whether or not it holds a record, or refuse to disclose that record, pursuant to the exemptions contained in Article 40, unless the harm to the interest protected by the relevant exemption outweighs the general public interest in disclosure.
44. The exceptions in Article 40 do not apply in cases of violation of human rights or crimes against humanity.

V. APPEALS

Internal Appeal

45. (1) A requester may, within [60] working days of a refusal to respond, or of any other breach of rules in this law for responding to a request, lodge an internal appeal with the head of the public authority.
- (2) The head of the public authority must issue a written decision stating adequate reasons, within [10] working days from receipt of the notice of appeal, and the requester provided with a copy of that decision.
- (3) If the requester decides to present an internal appeal, he/she must wait the full term of the timelines in this provision prior to lodging an external appeal.

Comment: An internal appeal should not be mandatory, but instead optional for the requester before proceeding to the external appeals process.

External Appeal

46. (1) Any requester who believes that his or her request for information has not been processed in accordance with the provisions of this law, whether or not he or she has lodged an internal appeal, has the right to file an appeal with the Information Commission.
- (2) Such an appeal shall be filed within [60] working days of a decision being appealed against, or the expiration of the timelines for responding to the request or an internal appeal established by this law.
- (3) Such an appeal shall contain: -
- a) the public authority with which the request was filed;
 - b) the contact information of the requester;
 - c) the grounds upon which the appeal is based; and
 - d) any other information that the requester considers relevant.
47. Upon receiving an appeal where it is apparent to the Commission that withholding the information is not justified, the Commission shall attempt to mediate between the parties with a view toward disclosure of the information without going through a formal appeal process.
48. (1) The Commission shall log the appeal in a centralized tracking system and inform all interested parties, including interested third parties, about the appeal and their rights to make representations.
- (2) The Commission shall set fair and nondiscriminatory rules regarding the processing of appeals which ensure that all parties have an appropriate opportunity to make representations.
49. (1) The Commission shall decide appeals, including attempts to mediate, within [50] working days and may, in exceptional circumstances, extend this timeline by another [50] working days.
- (2) The Commission, in deciding the case, may: -
- a) reject the appeal;
 - b) require the public authority to take such steps as may be necessary to comply with its obligations under this law, such as, but not limited to, providing the information and/or reducing the fee;

- (3) The Commission shall serve notice of its decision to the requester, the public authority and any interested party. Where the decision is unfavorable to the requester, he or she shall be informed of his or her right to appeal.
- (4) If a public authority does not comply with the Commission's decision within the time limits established in that decision, the Commission or the requester may file a petition with the [proper] court in order to compel compliance.

Comment: The manner of enforcing the Commission's decisions in accordance with paragraph 4 will vary from country to country.

Court Review

50. A requester may file a case with the court only to challenge a decision of the information commission, within [60] days of an adverse decision or the expiration of the term provided in the law.
51. The court shall come to a final decision on all procedural and substantive aspects of the case within [60] days.

Comment: These rules are based on the assumption that as in many countries courts have all of the inherent powers needed to process these types of cases, including for example imposing sanctions on public authorities. Where this is not the case, these powers may need to be explicitly given to them through the access to information law.

Burden of Proof

52. The burden of proof shall lie with the public authority to establish the reasons why the information needs to be withheld. In particular, the public authority must establish: -
 - a) that disclosure will cause harm to an interest protected by this law; and
 - d) that the likelihood and gravity of that harm outweighs the public interest in access to the information.

VI. Information Commission

Establishment of the Information Commission

53. (1) An Information Commission is hereby established, which shall be in charge of promoting the effective implementation of this law;
- (2) The Information Commission shall have full legal personality, including the power to acquire, hold and dispose of property, and the power to sue and be sued;
- (3) The Information Commission shall have operative, budgetary and decision-making autonomy and shall report to the legislature;

- (4) The legislature shall approve the budget of the Information Commission, which shall be sufficient to enable the Commission to perform its duties adequately.

54. (1) The Information Commission shall be comprised of [three or more] commissioners.

(2) The Commissioners shall appoint a Chair from among themselves.

55. (1) No one shall be appointed Commissioner unless he/she:

- a) is a citizen;
- b) is a person of high moral character and recognized competence in the field of transparency and the right to information;
- c) has not held a [high-ranking] position in government or with a political party within the past [2] years; and,
- d) has not been convicted of a violent crime or a crime of dishonesty, within the last [five] years, for which he or she has not been pardoned.

56. The Commissioners will be appointed by the [Executive Official] after a nomination of a two-thirds majority vote of the [legislative body] and in a process in accordance with the following principles: -

- a) participation by the public in the nomination process
- b) transparency and openness; and
- c) the publication of a short list of candidates.

Comment: In order to increase confidence in the institution, it is desirable that both the executive and legislature be involved in the selection process; that any decision by the legislature be by a supermajority (e.g. 60 percent or two thirds) sufficient to ensure bi- or multi-partisan support; that the public has an opportunity to participate in the nomination process; and that the process be transparent. There are two main approaches: executive appointment, with nomination or approval by the legislature; and legislative appointment, with nomination or approval by the executive.

57. (1) The Commissioners shall serve full-time and be paid the same salary as a [high court judge].

(2) The Commissioners shall not hold another job, position or commission, except in educational scientific or charitable institutions.

Comment: It is strongly recommended that the Information Commissioner, or Chair of the Information Commission should serve full-time, and that his/her salary should be linked to an externally established rate to enhance commissioner's independence.

58. The Commissioners hold office for a period of [5] years, which may be renewed once.
59. (1) The Commissioners may not be removed or suspended from office, except in accordance with the procedure by which he or she was appointed and only for reasons of incapacity or behavior that renders him/her unfit to discharge his/her duties. Such behavior includes:
- a) conviction of a criminal offense;
 - b) infirmity that affects the individual's capacity to discharge his duties;
 - c) severe breach of the provisions of the Constitution or this Act;
 - d) refusal to comply with any objective disclosure requirements, such as regarding salary or benefits.
- (2) Any Commissioner that has been removed or suspended has the right to appeal that removal or suspension to a court of law.

Duties of the Commission

60. The Commission shall, in addition to any other specific powers established by this Act, have all the necessary powers to discharge its duties, including: -
- a) to review any information held by a public authority, including through on-site inspection;
 - b) to compel witnesses and evidence in the context of an appeal;
 - c) to adopt such internal rules as may be necessary to conduct its business; and
 - d) to issue recommendations to public authorities.
61. The Commissioners shall, in addition to other duties specifically established by this Act, have the following duties: -
- a) to interpret this law;
 - b) to provide support and guidance, upon request, to public authorities concerning the implementation of this Act;
 - c) to promote awareness and understanding of the law and its provisions among the public, including through publishing and disseminating a guide on the right of access to information;
 - d) to make recommendations on existing and proposed legislation; and,

- e) to refer cases of wrongdoing.

Reporting

62. (1) Public Authorities shall report annually to the Commission on the activities of the public authority pursuant to, or to promote compliance with, this Act. This report shall include, at least information about: -
- a) the number of requests for information received, granted in full or in part, and refused;
 - b) how often and which sections of the Act were relied upon to refuse, in part or in full, requests for information;
 - c) appeals from refusals to communicate information;
 - d) fees charged for requests for information;
 - e) its activities pursuant to Article 11 (duty to publish);
 - f) its activities pursuant to Article 32 (maintenance of records); and
 - g) its activities pursuant to Article 66 (training of officials).
- (2) The Commissioners shall report annually on the Commission's operation. This report shall include, at least, the number of appeals filed with the body, including a break-down of the number of appeals from various public authorities; and results and status of these appeals.

Criminal and Civil Responsibility

63. No one shall be subjected to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Act, as long as they acted reasonably and in good faith.
64. (1) It is a criminal offense to willfully destroy or alter records after they have been the subject of a request for information.
- (2) Anyone who bears responsibility for an offence under sub-section (a) shall be liable to a fine not exceeding [insert appropriate amount] and, for a repeated offense, to imprisonment for a period not exceeding ____ years. The head of a public body that is found to have committed any of these offenses may be subject to a fine between 20% and 50% of his or her annual salary.
- (3) A court may hold the head of a public body in contempt for failure to comply with a court order to disclose information, and may impose daily fines for non-compliance up to 50% of his or her annual salary.
- (4) Any sanctions ordered shall be posted on the website of the Commission and the respective public body within five days of their having being ordered.

65. (1) It is an administrative offense willfully to: -

- a) Obstruct access to any record contrary to **Parts II and III** of this Act;
- b) Obstruct the performance by a public authority of a duty under **Parts II and III** of this Act;
and
- c) Interfere with the work of the Commission.

(2) Anyone may make a complaint about an administrative offense as defined above.

VII. Promotional Measures

Training

- 66. The Information Officer shall ensure the provision of appropriate training for the officials of the public authority on the application of this Act.
- 67. The Information Commission with the support of civil society, shall assist public authorities in providing training to officials on the application of this law.

Formal Education

- 68. The [Ministry of Education] with the support of civil society, shall ensure that core education modules on the right to information are provided to students in each year of primary and secondary education.

Short Title and Commencement

- 69. This Act may be cited as the Access to Information Act [insert relevant year].
- 70. This Act shall come into effect on a date proclaimed by [insert relevant individual, such as president, prime minister or minister] provided that it shall automatically come into effect six months after its passage into law if no proclamation is forthcoming.