

Draft Model Law on Access to Information for Small Island Developing States (SIDSs)

This draft Model Law on Access to Information for Small Island Developing States (SIDSs) (Model Law) was prepared by Toby Mendel, Executive Director, Centre for Law and Democracy (CLD). It aims to provide guidance to decision-makers and advocacy groups in Small Island Developing States (SIDSs) in promoting the adoption of access to information laws which take into account the specificities of SIDSs and yet are based on international standards. It provides a strong legal basis for the right to access information and yet is realistic from an implementation perspective given the small size of the bureaucracies in these countries.

The Model Law draws on general standards regarding the right to information, for example as captured in CLD's RTI Rating Indicators¹ and UNESCO's *Tashkent Declaration on Universal Access to Information*.² It also incorporates legislative drafting recommendations from the *Principles on Right to Information for Small Island Developing States: The Case of the Pacific*, which CLD published in September 2024, with the support of UNESCO.³ The latter publication suggests a number of adaptations to better practice legislative approaches adopted in larger countries so as to make them more practical to be implemented in smaller population countries while also not sacrificing human rights standards.

It has also been the subject of three regional consultations, for the North Pacific in Pohnpei, Federated States of Micronesia, 13-17 May 2024, for the South Pacific in Suva, Fiji, 9-13 December 2024, and for the Indian Ocean in Beau Vallon, Seychelles, 26-29 May 2025.

June 2025

AN ACT

An Act to promote maximum disclosure of information in the public interest, to guarantee the right of everyone to access information and to provide for effective mechanisms to secure that right.

¹ The RTI Rating, maintained by CLD, is the leading global methodology for assessing the strength of legal frameworks for the right to information globally. The main rating is available at: <https://www.rti-rating.org/country-data/>, and the 61 Indicators upon which the rating is based are available at: https://www.rti-rating.org/wp-content/uploads/2021/01/Indicators.final_.pdf.

² Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000383211>.

³ Available at: <https://www.law-democracy.org/live/principles-on-right-to-information-for-small-island-developing-states/>.

Preamble

The right of individuals to access information held by public authorities, or the right to information, is recognised globally as a human right, part of the wider right to freedom of expression, which includes the right to seek and receive, as well as to impart, information and ideas.

The right to information is important in its own right, to allow individuals to develop fully as human beings and to fulfil their chosen destinies. It is also important as a facilitator of other rights and important social values, such as fostering participation in governance, controlling corruption, supporting strong development outcomes and holding governments to account.

This Act enshrines the right to information for [ADD IN THE NAME OF THE COUNTRY], bringing it into line with international standards as well as the large majority of UN Member States which have so far adopted such laws. It is intended to provide a strong and progressive basis for openness on the part of the Government of [ADD IN THE NAME OF THE COUNTRY] and for its citizens and others to access public information.

Be it enacted by [ADD IN THE NAME OF THE COUNTRY] as follows:

Section 1. Short title.

This Act shall be known as “The Access to Information Act, [ADD YEAR]”.

Section 2. Definitions.

As used in this Act, unless the context clearly indicates otherwise, the following definitions shall apply:

- (a) “Applicant” means any person who makes a request for information, i.e. for a public record.
- (b) “RTI Unit” means the central unit established in the [ADD IN THE NAME OF THE APPROPRIATE GOVERNMENT BODY TO HOUSE THIS UNIT, SUCH AS “DEPARTMENT OF JUSTICE”], as provided for in section 8.
- (c) “Oversight Body” means the [ADD IN THE NAME OF THE APPROPRIATE INDEPENDENT OVERSIGHT BODY FOR PROCESSING APPEALS], as provided for in section 18.
- (d) “Person” includes citizens and residents of [ADD IN THE NAME OF THE COUNTRY], as well as legal entities established in [ADD IN THE NAME OF THE COUNTRY].

- (e) “Public authority” means any body which is established by or under the Constitution or by statute, which forms part of any level or branch of Government, including any subdivision of a government entity or quasi-government entity, which is a State-owned enterprise, which is owned or controlled by any of the previously listed bodies, which is substantially financed by funds provided by any of the previously listed bodies, or which carries out a statutory or public function.
- (f) “Public record” means anything which communicates meaning, which is held by a public authority and which is recorded in any format, regardless of that format, the date on which the recording took place, its source, whether or not it was created by the body which holds it, or its official status (including whether or not it is classified), and shall cover both information included in a record and a record as such.
- (g) “Request for information” means a request for a public record.
- (h) “Third party” means a person other than the applicant, the RTI Unit or a public authority.

Section 3. Benefits of the right to information and interpretation.

1. The right to information entails the following benefits:
 - (i) assisting in the fight against corruption;
 - (ii) fostering more effective participation in governance;
 - (iii) holding government and public authorities to account;
 - (iv) supporting sound and sustainable development;
 - (v) enabling the pursuit of personal goals; and
 - (vi) creating a fair, level-playing field environment for business.
2. The provisions of this Act and, in particular, the exceptions, shall be interpreted so as to give effect to the reasonable meaning of their terms which best gives effect to the benefits listed above.

Section 4. Every person shall have the right to access information.

Subject to the provisions of this Act, every person shall have the right to access any public record, whether via a request for information or via the proactive disclosure of that record by a public authority.

Section 5. Legislation prohibiting or restricting disclosure.

1. This Act applies to the exclusion of any provision in any other legislation which burdens, prohibits or restricts the disclosure of information or a record by a public

authority, including such that any secrecy provision in any other legislation which conflicts with this Act shall either be null and void to the extent that it conflicts with this Act or be interpreted so as to align with this Act;

Provided that secrecy provisions in other laws may elaborate on the exceptions established in this Act in a manner which is consistent with this Act.

2. Nothing in this Act limits or otherwise restricts the disclosure of information pursuant to any other legislation, policy or practice.

Section 6. Proactive disclosure by public authorities.

1. Each public authority shall be required to publish the following categories of information on a proactive basis, in a timely fashion, including online regardless of whether any person has made a request for that information:
 - (i) the particulars of its organisation, functions and duties;
 - (ii) the powers and duties of its officers and employees;
 - (iii) the procedure followed by it in its decision-making processes, including channels of supervision and accountability;
 - (iv) the norms set by it for the discharge of its functions, along with any strategies, plans or policies it has adopted;
 - (v) the rules, regulations, instructions, manuals and records which are held by it, under its control or used by its employees for discharging its functions;
 - (vi) a detailed statement of the categories of public records which are held by it or which are under its control;
 - (vii) the particulars of any arrangement which exists for consultation with, or the making of representations by, members of the public in relation to the formulation of its policies or implementation thereof;
 - (viii) a directory of its officers and employees;
 - (ix) the annual budget allocated to it, along with its annual report on budget expenditure;
 - (x) the manner of execution of subsidy programmes, including the amounts allocated and the details of the beneficiaries of such programmes;
 - (xi) particulars of the recipients of licences, concessions, permits or other types of authorisations which it has granted;
 - (xii) details of any projects and programmes it is implementing;
 - (xiii) relevant environmental information pertaining to the sector in which it works; and
 - (xiv) such other information as may be prescribed.
2. The information listed in sub-section (1) shall, if it changes, be updated promptly.
3. In addition to publishing the information listed in sub-section (1)(xii) online, an effort shall be made to ensure that it is, as relevant, brought to the attention of those likely to be particularly affected by the project or programme in question.

4. Public authorities shall make an effort to publish the information listed in sub-section (1) as promptly as possible, provided that they shall at least meet the following minimum quotas:
 - (i) 30% of the information shall be published within three years of this Act coming into force;
 - (ii) 50% of the information shall be published within four years of this Act coming into force; and
 - (iii) all of the information shall be published within five years of this Act coming into force.

Section 7. Requests for information.

1. Any person may make a request for information to the RTI Unit in writing, including in person, electronically, or via mail or fax, and, subject to sub-sections (4) and (5), any such request which includes an address for delivery of the information and describes the information sought in sufficient detail to enable an experienced official to identify, with reasonable effort, whether or not a public authority holds the information, shall be processed in accordance with this Act.
2. An applicant shall not be required to provide any additional information, other than that listed in sub-section (1), and, in particular, shall not be required to provide reasons for his or her request.
3. A non-resident foreigner may also, on the same terms as are set out in sub-sections (1) and (2), make a request for information and that request shall be processed in accordance with this Act unless to do so would place an undue burden on the government.
4. Where a request for information pursuant to sub-section (1) does not comply with the provisions of that sub-section, the RTI Unit shall render such reasonable assistance, free of charge, to the applicant as may be necessary to enable the request to comply with sub-section (1).
5. An individual who is unable, because of illiteracy or disability, to make a written request for information may make an oral request and the RTI Unit shall reduce it to writing, including the name, position and signature of the responsible person within the RTI Unit, and give a copy thereof to the applicant.
6. The RTI Unit may develop a form for making requests for information, provided that such forms shall not be mandatory and shall not ask applicants for more information than is otherwise provided for in this Act.

7. When the RTI Unit receives a request for information, it shall provide the applicant with a receipt documenting the request as soon as possible and in any case within three working days.

Section 8. Establishment of and cooperation with the RTI Unit.

1. There is hereby established an RTI Unit within the [ADD IN THE NAME OF THE APPROPRIATE GOVERNMENT BODY TO HOUSE THIS UNIT, SUCH AS “OFFICE OF THE PRESIDENT” OR “DEPARTMENT OF JUSTICE”] which shall be dedicated to processing requests for information and discharging such other responsibilities as are provided for under this Act.
2. The [ADD IN THE NAME OF THE APPROPRIATE GOVERNMENT BODY TO HOUSE THIS UNIT] shall ensure that the RTI Unit is sufficiently well staffed, trained and resourced to enable it to discharge its functions appropriately.
3. Each public authority shall designate one officer as liaison officer for purposes of cooperating with the RTI Unit, provided that an alternate officer shall be designated for such times as the primary officer is absent.
4. The designated officer shall collaborate promptly and efficiently with the RTI Unit so as to allow it to process requests for information in accordance with the rules set out in this Act, including as to time limits.
5. Decisions about whether or not to release information shall be made by the RTI Unit, provided that, in exceptional circumstances, the head of the public authority which holds the information may override a decision by the RTI Unit to disclose information by providing written reasons to justify this.

Section 9. Time limits for responding to requests.

1. The RTI Unit shall respond to a request for information as soon as is reasonably possible and in any event within ten working days of receipt of the request.
2. The RTI Unit may, by notice in writing within the initial ten-day period, extend the period in sub-section (1) to the extent strictly necessary, and in any case to not more than a total of thirty working days, where the request is for a large number of records, requires a search through a large number of records or requires consultation with third parties, and where compliance within ten working days would unreasonably interfere with the activities of either it or the concerned public authority.
3. Failure to comply with this section is deemed to be a refusal of the request.

Section 10. Notice of response.

1. The response under section 9 to a request for information shall be by notice in writing and state:
 - (i) in relation to any part of the request which is granted, the applicable fee, if any, and the form in which the information will be communicated;
 - (ii) in relation to any part of the request which is not granted, adequate reasons for the refusal, including the exact provision(s) of this Act which is(are) being relied upon for the refusal; and
 - (iii) information about the right of the applicant to lodge an appeal against the decision.
2. In relation to any part of a request which is granted, communication of the information shall take place forthwith upon payment of any fee.

Section 11. Fees.

1. There shall be no fee simply for making a request for information although the communication of information pursuant to a request may, subject to subsections (2) and (3), be made conditional upon payment by the applicant of a reasonable fee, which shall not exceed the prevailing market cost of reproducing and communicating (sending) the information.
2. Payment of a fee shall not be required for requests for personal information or requests in the public interest.
3. The President [OR ADD IN ALTERNATIVE APPROPRIATE DECISION MAKER] shall make regulations providing:
 - (i) for a schedule of fees for different information services;
 - (ii) that no fee is to be charged in prescribed cases, including for impecunious applicants; and
 - (iii) that any fee cannot exceed a certain maximum.
4. A public authority or the RTI Unit shall not charge a fee where the number of pages to be photocopied and sent is 20 or less.

Section 12. Means of communicating information.

1. Where a request indicates a preference as to the form of communication of information which is listed in sub-section (2), the RTI Unit shall, subject to sub-section (3), provide the information in accordance with that preference.
2. A request may indicate the following preferences as to the form of communication of information:
 - (i) a true copy of the record in permanent or other form;

- (ii) an opportunity to inspect the record, where necessary using equipment normally available to the public authority which holds the information;
 - (iii) an opportunity to copy the record, using the applicant's own equipment;
 - (iv) a written transcript of the words contained in a record which is stored in a sound or visual format;
 - (v) a transcript of the content of a record, in print, sound or visual form, where such transcript is capable of being produced using equipment normally available to the body; or
 - (vi) a transcript of the record from shorthand or other codified form.
3. The RTI Unit shall not be required to communicate information in the preferred form indicated by the applicant where to do so would:
- (i) unreasonably interfere with the effective operation of the public authority which holds the information; or
 - (ii) be detrimental to the preservation of the record.
4. Where a record exists in more than one language, communication of the record shall, from among those languages, be given in accordance with any language preference indicated by the applicant.

Section 13. If a Record is not held.

Where the RTI Unit receives a request for information which is not held by any public authority, it shall notify the applicant that the information is not held.

Section 14. Reuse of information.

1. Anyone who has received public information or a public record legally, whether pursuant to this Act or in any other way, has the right freely to reuse that information, including by adapting, reproducing and/or sharing the information, free of copyright or database right restrictions, subject to this section.
2. The President [OR ADD IN ALTERNATIVE APPROPRIATE DECISION MAKER] may adopt reuse licences, in accordance with international standards in this area, which place certain conditions on the reuse of information and which public authorities or the RTI Unit may attach to information or public records they disclose, whether proactively, in response to a request under this Act or otherwise.

Section 15. The regime of exceptions.

1. Notwithstanding any provision in this Act, neither the RTI Unit nor a public authority may refuse to disclose a public record unless the harm from disclosure to the interest which is protected by that provision outweighs the public interest in disclosure.

2. For purposes of sub-section (1), the public interest shall include but shall not be limited to:
 - (i) combatting corruption;
 - (ii) protecting the environment;
 - (iii) exposing illegal, unprofessional or otherwise unacceptable behaviour, wrongdoing or maladministration;
 - (iv) exposing a threat to safety or health;
 - (v) improving public participation in governance; and
 - (vi) holding State actors to account
3. Notwithstanding any provision in this Act, neither the RTI Unit nor a public authority may refuse a request for information where the information is already publicly available, provided that, in this case, they may respond to the request by directing the applicant to a public source for the information, such as a URL, if one is available.
4. If a request for information relates to a public record which contains information which, subject to this Act, is exempt, any information in the record which is not exempt shall, to the extent that it may reasonably be severed from the rest of the information, be communicated to the applicant.
5. Sub-sections 16(a), (b), (c), (f) and (i) do not apply to a public record which is more than 20 years old.

Section 16. Specific exceptions.

The following information shall, subject to section 15, be exempt:

- (a) information the disclosure of which would or would be likely to cause harm to national defence or security, or good relations with foreign countries or inter-governmental organisations;
- (b) information the disclosure of which would or would be likely to undermine the ability of [ADD IN THE NAME OF THE COUNTRY] or a public authority in [ADD IN THE NAME OF THE COUNTRY] to conduct successful negotiations with another country, or an inter-governmental organisation or corporate entity;
- (c) information the disclosure of which would or would be likely to:
 - (i) cause serious prejudice to the effective formulation or development of government policy;
 - (ii) seriously frustrate the success of a policy, by premature disclosure of that policy;

- (iii) significantly undermine the deliberative process within or between public authorities by inhibiting the free and frank provision of advice or exchange of views; or
- (iv) significantly undermine the effectiveness of an ongoing investigation, or testing or auditing procedure used by a public authority;

Provided that this does not apply to facts, analyses of facts, technical data or statistical information;

- (d) information which was provided in confidence by a third party and either is a trade secret or the disclosure of which would or would be likely to prejudice seriously the legitimate commercial or financial interests of the third party who provided it;
- (e) information the disclosure of which would involve an unreasonable invasion of the privacy of a natural third party;
- (f) information the disclosure of which would or would be likely to cause serious prejudice to:
 - (i) the prevention or detection of crime;
 - (ii) the apprehension or prosecution of offenders;
 - (iii) the administration of justice;
 - (iv) the assessment or collection of any tax or duty;
 - (v) the operation of immigration controls; or
 - (v) the assessment by a public authority of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified;
- (g) information which is an attorney-client privileged communication;
- (h) information the disclosure of which would or would be likely to endanger the life, health or safety of any individual; and
- (i) information the disclosure of which would or would be likely to cause serious prejudice to the ability of the government to manage the economy, or to the legitimate commercial or financial interests of a public authority;

Provided that this does not apply insofar as the request relates to the results of any product or environmental testing and the information concerned reveals a serious public safety or environmental risk.

Section 17. Third parties.

1. Where a request for information relates to a public record provided on a confidential basis by a third party, the RTI Unit shall endeavour to contact that third party with a

view to obtaining either his or her consent to disclosure of the record or his or her objections to disclosure.

2. Where a third party objects to disclosure, his or her objections shall be taken into account but the decision as to whether or not the information falls within the scope of the regime of exceptions in this Act shall be assessed by the RTI Unit and public authority concerned on the basis of objective considerations.

Section 18. Oversight Body

1. The [ADD THE NAME OF THE APPROPRIATE INDEPENDENT OVERSIGHT BODY FOR PROCESSING APPEALS, SUCH AS AN OMBUDSMAN OR HUMAN RIGHTS COMMISSION] is hereby designated as the Oversight Body for the right to information.

Section 19. Administrative appeals.

1. An applicant who does not believe that his or her request for information was dealt with in accordance with the provisions of this Act, or a third party who believes that a decision to disclose information provided in confidence by him or her to a public authority was made in error may lodge an administrative appeal to that effect with the Oversight Body, which appeal shall be free of charge.
2. Where the Oversight Body receives an appeal pursuant to sub-section (1), it shall have the following powers:
 - (i) to examine any public record to which this Act applies, and no such record may be withheld from the Oversight Body on any grounds, including grounds based on claims of confidentiality;
 - (ii) to require any person or a representative of a public authority to give sworn testimony before it or to produce documentary or other evidence which is reasonably relevant to an appeal;
 - (iii) to inspect the premises of any public authority;
 - (iv) to issue binding orders to public authorities to disclose information to an applicant and, in appropriate cases, to provide compensation to an applicant where a denial of access to information has caused direct harm to that applicant;
 - (v) to issue binding orders to the RTI Unit and public authorities to address structural problems regarding the implementation of the Act, including to appoint staff to process requests or to maintain their records in accordance with the rules.
3. The Oversight Body shall adopt fair procedures for processing appeals which shall at least give all relevant parties, such as the applicant, the RTI Unit, the relevant public authority and any third parties, an opportunity to be heard, whether in person or via written submissions, and set clear time limits for reaching decisions on appeals, provided that the procedures shall be sufficiently simple for individuals to pursue appeals without the assistance of a lawyer.

4. In an appeal, the RTI Unit and/or public authority shall bear the burden of proof of showing that they processed a request for information in accordance with the rules set out in this Act.
5. The Oversight Body shall include, in its annual report, detailed information about the information appeals which it has received and how they were processed.

Section 20. Judicial appeals.

Any party to an administrative appeal before the Oversight Body who is not satisfied with the manner in which the Oversight Body has dealt with that appeal shall have the right to lodge a judicial appeal before the courts.

Section 21. Protections

1. No one shall be subject 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.
2. No one may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or which would disclose a serious threat to health, safety or the environment, as long as they acted in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.
3. For purposes of sub-section (2), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration in relation to a public authority.

Section 22. Sanctions.

1. It is a disciplinary offence wilfully to obstruct access to any record contrary to this Act.
2. Disciplinary offences under this Act shall be subject to appropriate employment-related sanctions, including wage deductions.
3. It is a criminal offence wilfully to:
 - (i) obstruct the performance by a public authority of a duty under this Act;
 - (ii) interfere with the work of the RTI Unit or the Oversight Body; or
 - (iii) destroy records without lawful authority.

4. Anyone who commits an offence under sub-section (1) shall be liable on summary conviction to a fine not exceeding [insert appropriate amount].

Section 23. Promotional measures

In addition to any other powers and responsibilities provided for in this Act, the RTI Unit shall:

- (a) monitor and report on the compliance by public authorities with their obligations under this Act;
- (b) make recommendations for reform both of a general nature and directed at specific public authorities;
- (c) co-operate with or undertake training activities for public officials on the right to information and the effective implementation of this Act;
- (d) refer to the appropriate authorities cases which reasonably disclose evidence of disciplinary or criminal offences under this Act;
- (e) review and make comments on draft legislation which may affect the rights established under this Act;
- (f) compile a comprehensive annual report both describing its own activities and providing an overview of the activities undertaken by all public authorities to implement this Act, including detailed statistical information about how requests for information have been processed;
- (g) set minimum records management standards according to which all public authorities shall manage their records; and
- (h) publicise the requirements of this Act and the rights of individuals under it, including by compiling a user-friendly handbook describing in easily comprehensible form the rights established by, and how to make a request for information under, this Act.

Section 24. Severability.

If any provision of this Act is found to be invalid or unconstitutional by a court of competent jurisdiction, then the offending part or portions may be severed from the rest of the Act and the remaining parts or portions shall continue in full force and effect.

Section 25. Effective date.

This Act shall take effect upon its approval by the President of [ADD IN THE NAME OF THE COUNTRY] or upon the passage of six months of its approval by [ADD IN THE NAME OF THE LEGISLATURE, SUCH AS "CONGRESS"]].