THE RIGHT TO ACCESS INFORMATION BILL, 2008

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A BILL ENTITLED

THE RIGHT TO ACCESS INFORMATION BILL, 2009

Short Title **The Right To Access Information Act, 2009**

Being an Act to An Act to make provision for the disclosure of information held by Public Authorities or by persons providing services for them and to provide for other related matters.

Date of Commencement. **[ ]**

Enacted by the President and Members of Parliament in this present Parliament assembled.

PART I – PRELIMINARY

1. Interpretation

In this Act, unless the context otherwise requires –

"access to information" means the inspection, taking notes and extracts and obtaining certified copies, or taking samples of any material containing information;

"Commissioner" means the Information Commissioner referred to in section 35;

"fees notice" means a notice in writing or, stating that a fee of an amount specified in the notice is to be charged by the Public Authority for complying with section 2.

“information” includes any material regardless of its physical form or characteristics, and any sample, work, model or copy thereof, any record, correspondence, memorandum, book, plan, map, drawing, film, microfiche, diagram, pictorial or graphic work, data, photograph, recording, audio or video-tape, machine readable material and any other information held in electronic form whether on computer disk or tape or in the memory of a computer or other device, anything that contains information, letters, reports, studies, records, minutes, statistics, directives, instructions, circulars, memoranda, practice notes, opinions, decisions in writing whether in form of sound, visual recordings or computerized data, any material recorded or stored by any means including tape, computer, or other device and any material subsequently derived from information so recorded or stored whether manually, mechanically or electronically and anything that is part or a copy, in any form, of any of the foregoing or is a combination of two or more of the foregoing;

"historical record" refers to a record which becomes available at the end of the period of thirty years beginning with the year following that in which it was created.

“official” means any person employed by the relevant body, whether permanently or temporarily and whether part-time or full-time;

“Minister” means the Minister responsible for matters relating to information;

“Public Authority” includes any body -

(a) established by or under the Constitution;
(b) established by statute;
(c) which forms part of any level or branch of Government;
(d) owned, controlled or substantially financed by funds provided by Government; or
(e) carrying out a statutory or public function;

private body” means any entity that is not a public authority

"Public record" includes any writing containing information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.

"public servant" means a person employed in the public service, that is to say, any person holding or performing with authority, the duties of any of the following offices (whether as a principal or as a deputy and whether such service is permanent or temporary, paid or unpaid):-

i. any office the holder of which is appointed or removed by the President or by any service commission;
ii. any office the holder of which is appointed, elected or otherwise selected in pursuance of any written law;
iii. any office the holder of which is appointed by any person or persons holding or performing, with authority, the duties of an office of one of the kinds specified in paragraph (a) or (b) and without prejudice to the generality of the foregoing, includes:-

a. an arbitrator or umpire in any proceedings or matter submitted to arbitration by order or with the sanction of any court or in pursuance of any written law;
b. every member of a commission of inquiry or of a tribunal appointed or selected in pursuance of any written law;
c. any person in the service of the disciplined forces;
d. any person in the employment of the Government or any local authority;
e. any person acting in a religious capacity, in respect of the exercise by him of any functions relating to marriage, birth, baptism, death or burial, but not in any other respect.

"publish" means to make available in a form generally accessible to members of the public and includes print, broadcast and electronic forms of information dissemination;

""personal information" means information about an identifiable individual, including, but not limited to:-

- information relating to the race, gender, sex, pregnancy, marital status. national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the individual;
- information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- any identifying number, symbol or other particular assigned to the individual;

- the address, fingerprints or blood type of the individual;
- the personal opinions. views or preferences of the individual, except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual;
- correspondence sent by the individual that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- the views or opinions of another individual about the individual; and

the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual, but excluding the name of the other individual where it appears with the views or opinions of the other individual

"record" includes 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.

PART II - THE RIGHT TO INFORMATION

Access to Information.

2(1). Every person has the right to access information held or under the control of a public authority.

Every person has the right to access information held or under the control of a private body where that information is necessary for the enforcement or protection of any right.

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

The right to access information includes the right to-

{a} inspect works, documents or records;

{b} take notes, extracts or certified copies of documents or records;

{c} take certified samples of material; or

{d} obtain 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

(2) Any person making a request for information to a Public Authority shall be entitled -

(a) to have the Public Authority confirm or deny whether that Public Authority holds the information of the description specified in the request, and

(b) where the Public Authority confirms that it holds the information of the description specified in the request, to have that information communicated to him.

(3) A Public Authority shall be deemed to have Complied with subsection (2) if it has communicated the information to the applicant.

(4) In this Act, the duty of a Public Authority to comply with subsection (2) shall be referred to as "the duty to confirm or deny".

Submission and forms of request

3(1). A request for information under section 2 shall be made -

(a) in writing,

(b) describe the information requested, and

(c) state the name of the applicant and an address for correspondence.

(2) For the purposes of paragraph (a) of subsection (1), a request shall be deemed to be made in writing where the text of the request -

(a) is transmitted by electronic means,

(b) is received in legible form, and

(c) is capable of being used for subsequent reference.

(3) {1} An application to access information shall be made in English or krio by email, fax, post, telephone or by any other medium provided that the applicant provides -

(a) contact details; and
(b) sufficient particulars for the public information officer or any other official to understand what information is being requested.

(4) A public information officer who receives an oral request shall reduce the request to writing, including the public information officer's name and designation, and shall give a copy thereof to the applicant.

(5) **Notwithstanding (3),** an application may, if the applicant is unable to communicate in English, be made in any other local language in use in Sierra Leone, and in such event the public information officer to whom the application is made shall arrange for a translation of the application to English.

(6) Where a request for information does not comply with **(3),** the public information officer who receives the request shall, subject to section 10, render such reasonable assistance, free of charge, as may be necessary to enable the request to comply with that sub-section.

(7) A request referred to in sub-section (6), shall not be deemed to have been rejected while assistance is being rendered.

(8) A public authority may not inquire into a person's identity on account of a request for access to any information, or inquire as to the purpose of the person's request.

(9) A public authority may prescribe a form for requests for information, but any such form must not be such as to unreasonably delay requests or place an undue burden upon applicants, and no application may be rejected on the ground only that the applicant has not used the prescribed form.

(10) A public authority which receives a request for information shall provide the applicant with a receipt documenting the request

Providing access to information

4 (1) Subject to section {below}, a public servant shall make a decision on an application as soon as possible, but in any event, within fifteen working days of receipt of the application. Provided that where the information sought concerns the life or liberty of a

person, the information shall be provided within forty-eight hours of receipt of the request:

Provided further that where an application is especially complex or relates to a large volume of information, the public servant may request the Information Commissioner for an extension of time of no more than fifteen working days.

(2) The public servant may seek the assistance of any other public servant as the officer considers necessary for the proper discharge of the officer's duties and such other officer shall render the required assistance.

Transfer of Application

5 (1) A public servant may, not later than five days from the date of receipt of an application, transfer the application, or any relevant part of it, to another public authority, if the information requested is held by that other public authority.

(2) Where an application is transferred under sub-section (1), the public servant shall inform the applicant immediately but in any event no later than five days from the date of receipt of the application, about such transfer.

(3) A public authority to which an application is referred under subsection
(1), shall make a decision on the application within **fifteen days** from the date that the application was first made, failing which the request shall be deemed to have been rejected

Fees.

6. (1) A Public Authority to whom a request for information is made may, within the time limit for compliance specified in section 5, give the applicant a fees notice, stating that a fee of an amount specified in the notice is to be charged by the Public Authority for complying with section 2.

(2) Where a fees notice has been given to the applicant, the Public Authority shall not obliged to comply with section 2 unless the fee is paid within the period of three months beginning with the day on which the fees notice is given to the applicant.

(3) Subject to subsection (5), any fee under this section shall be determined by the Public Authority in accordance with regulations made by the Minister under this Act.

(4) Regulations made by the Minister under subsection (3) may, in particular, provide -

(a) that no fee shall be payable under this section in the following cases:

(i)

(ii)

(b) that any fee to be paid shall not to exceed the direct cost incurred in providing the information to the applicant in the form in which he had requested such information.

(5) Subsection (3) shall not apply where provision is made in any enactment as to the fee that may be charged by the Public Authority for the disclosure of the information.

Time limit for compliance.

7. (1) A Public Authority shall comply with section 2 promptly and in any event not later than the seven working day following the date of receipt of the request or the date of payment of prescribed fee.

(2) Public Officer shall record and maintain records of public transaction and transactions of public institutions in a manner that facilitate the right to information.

(3) Where a request for information by an applicant under this Act relates to information which reasonably appears to be necessary to safeguard the life or liberty of any person, the Public Authority to whom a request for information is made shall comply with such request within 24 hours.

(4) Failure by a Public Authority shall comply with subsections (1) and (2) shall be deemed to be a refusal of the request.

Communi-cation of request.

8(1). Where, on making a request for information, the applicant expresses a preference for communication by any one or more of the following means, namely -

(a) the provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant,

(b) the provision to the applicant of a reasonable opportunity to inspect a record containing the information, or

(c) the provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant,

the Public Authority shall so far as reasonably practicable give effect to that preference.

(2) In determining whether it is reasonably practicable to communicate information by any particular means, the Public Authority may have regard to all the circumstances, including the cost of doing so.

(3) Where the Public Authority determines that it is not reasonably practicable to comply with any preference expressed by the applicant in communicating the information, the Public Authority shall notify the applicant of the reasons for its determination.

(4) Subject to subsection (1), a Public Authority may comply with a request by communicating the information requested by any means reasonable in the circumstances.

Guiding Principles

9 (1) A public authority shall –

(a) publish and update –

(i) the particulars of its organization, 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) any guidance used by the authority in relation to its dealings with the public or with corporate bodies, including 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 guide sufficient to enable any person wishing to apply for information under this Act to identify the classes of information held by it, the subjects to which they relate, the location of any indexes to be consulted by any person;
(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 advising it with information 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 to the 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 agencies, 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 authorizations 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, contact details and other particulars of its public information officers, appellate authorities and the particulars and contract details of the Information Commissioner;
(xvii) a list of all applications under this Act received by the public authority, including an indexed register containing copies of records released in response to request under this Act other than records relating to the personal affairs of the applicant;
(xviii) such other information as may be prescribed by the Minister;

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

(c) provide to any person the reasons for any decision taken by it in relation to that person;

(d) 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 interests of natural justice and promotion of democratic principles.

(e) unless there are good reasons to the contrary, allow members of the public to attend its meetings at which decisions affecting them are made and shall give adequate notice of such meetings;

(f) upon signing, public authorities shall publish all contracts entered into, detailing at a minimum for each contract-

(i) the public works, goods acquired or rented, and the contracted service, including any sketches, scopes of service and terms of reference;
(ii) the contract sum;
(iii) the name of the provider, contractor or individual to whom the contract has been granted;
(iv) the periods within which the contract shall be completed.

(2) It is the duty of every public authority to take steps in accordance with the requirements of sub-section (1) to provide information proactively to the public at regular intervals through various media of communication.

(3) All materials shall be disseminated taking into consideration the need to reach persons with disabilities, the cost, local language and the most effective method of communication in that local area and the information should be easily accessible, and be available free or at cost, taking into account the medium used.

(4) At a minimum, the material referred to in sub-section (1) shall be made available -

(a) for inspection by any person without charge;
(b) by supplying a copy to any person on request for which a reasonable charge to cover the costs of copying and supplying them may be made, and

(c) on the Internet, provided that the materials are held by the authority in

PART III - EXEMPT INFORMATION

Exempt information.

10 (1) Information is exempt information if, its disclosure, by a Public Authority is exempted under this Act.

(2) Notwithstanding subsection (1), information shall not be exempt where the public interest in accessing the information

grossly outweighs the harm which the exemption in subsection (1) seeks to prevent.

(3) Despite section 4, information, hereinafter in this Act referred to as "exempt information" may be withheld by a public authority where the public authority concerned is satisfied that disclosure of such information is reasonably likely

Refusal of request.

11. . A Public Authority which, in relation to any request for information, is to any extent relying on a claim that that information is exempt information must, within the time for complying with section 2, notify the applicant in writing stating -

(a) that information is exempt information,

(b) the specific exemption in question, and

(c) why the exemption applies.

Information accessible by other means

12. (1).The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the disclosure of any information which may be reasonably accessible to the applicant.

(2) For the purposes of subsection (1) –

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment;

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the Public Authority or any other person is bound by law to communicate,

(c) information which is held by a Public Authority shall not to be regarded as reasonably accessible to the applicant merely because the information is available from the Public Authority itself on request, unless the information is made available in accordance with the Publication Scheme referred to in section …

National security and defence.

13 The duty to disclose information shall not apply if, or to the extent that, exemption from section 2 is required for the purpose of protecting, or is likely to prejudice national security

and the defense of Sierra Leone, or the capability or effectiveness of the security forces.

International relations.

14. The duty to disclose information shall not apply if, or to the extent that, exemption from section 2 is required for the purpose of protecting, or is likely to prejudice relations between Sierra Leone and any other state.

Economic interests.

15. The duty to disclose information shall not apply if, or to the extent that, exemption from section 2 is required for the purpose of protecting, or is likely to prejudice the economic or financial interests of the Sierra Leone.

Investigations and law enforcement.

16. The duty to disclose information shall not apply if, or to the extent that, exemption from section 2 is required for the purposes of any investigation which a Public Authority has a duty or power to conduct in order to ascertain -

(i) whether a person should be charged with an offence, or

(ii) whether a person charged with an offence is guilty of it.

Parliamentary privilege.

17. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the disclosure of any information which may, or is likely to, prejudice the privileges of Parliament.

Third Party information.

18. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the disclosure of any information obtained by the Public Authority from a third party, including another Public Authority, which may, or is likely to constitute a breach of confidence actionable by that third party or any other person.

Client professional privilege

19. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the disclosure of any information obtained by the Public Authority from a third party, including another Public Authority, which may, or is likely to, prejudice client professional privilege or confidentiality actionable by that third party or any other person.

Personal matters

20 (1). The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the disclosure of any information obtained by the Public Authority if disclosure involves the unreasonable disclosure of information

concerning the personal affairs of an individual whether living or deceased.

(2) For the purposes of this section disclosure is unreasonable if the disclosure reveals or is likely to reveal information about a person's -

(a) physical or mental health;
(b) marriage or employment record;
(c) business or trade secrets of commercial value to that person, or
(d) professional, commercial or financial affairs.

(3) For the purposes of this section disclosure is not unreasonable, if -

(a) the individual to whom the information relates gives prior consent;
(b) the disclosure is required to promote public health or public safety;
(c) the disclosure is necessary in order to subject government activities to public scrutiny;
(d) the disclosure does not unjustifiably damage the reputation of another person referred to in the information;
(e) the disclosure is made to the individual to whom the information relates;
(f) the disclosure does not contravene another provision on exempt information specified in this Act;
(g) the disclosure can reasonably be expected not to have an adverse effect on the affairs of any person or prejudice the future supply of the information;
(h) the information is already available to the public;
(i) the individual to whom the information relates was informed or made aware prior to supplying the information that the information belongs to a class of information that will or might be made available to the public;
(j) in the case of a deceased person, the applicant is the next of kin or represents the next of kin of the deceased;
(k) the third party has been deceased for more than 20 years.

Commercial interests.

21. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the disclosure of any information obtained by the Public Authority from a third party, including another Public Authority, which may, or is likely to, prejudice a trade secret or if its disclosure would, or is likely to, prejudice the commercial interests of any person, including the Public Authority holding it.

Severability.

22. If a request for information relates to a record containing information which falls within the scope of an exception in this Part, any information in the record which is not subject to an exception shall, to the extent it may reasonably be severed from the rest of the information, be provided to the applicant.

PART IV: MEASURES TO PROMOTE OPENNESS

Duty to provide advice and assistance.

23. It shall be the duty of a Public Authority to provide advice and assistance, so far as it would be reasonable to expect the Public Authority to do so, to applicants requesting information under section 2..

Publication Schemes.

24 (1). The Commissioner may from time to time develop and publish, in relation to Public Authorities falling within particular classes, Publication Schemes prepared by him or by his authority.

(2) The Commissioner may, from time to time review and update a Publication Scheme published under this Act.

Maintenance of records.

25.(1) Every Public Authority shall record and maintain records of its activities in a manner that facilitates the right to information, as provided for in this Act, and in accordance with the Code of Practice referred to in subsection (2).

(2) The Commissioner shall, after appropriate consultation with interested parties, issue and from time to time update a Code of Practice relating to the keeping, management and disposal of records, as well as the transfer of records to public archives.

(3) (1) Every Public Authority shall cause to be published and update when changes occur, in both the official gazette and in 2 local newspapers, a description of:

(a) the organization and responsibilities of the Public Authority including details of programmes and functions of each division, branch or department;

(b) all classes of record under the control of the Public Authority in sufficient detail to facilitate the exercise of the right to access information under this Act;

(c) all manuals used by employees of the Public Authority in administering or carrying out any of the programmes or activities;

(d) documents containing final opinions including concurring and dissenting opinions as well as orders made in the adjudication of cases;

(e) documents containing substantive rules of the Public Authority;

(f) documents containing statements and interpretation of policy which have been adopted by the Public Authority;

(g) documents containing final planning policies, recommendations and decisions of the Public Authority;

(h) documents containing factual reports, inspection reports and studies whether prepared by or for the Public Authority;

(i) documents containing information relating to the receipt of expenditure of public or other funds of the Public Authority;

(j) documents containing the names, salaries, titles, and dates of employment of all employees and officers of the Public Authority;

(k) documents containing the rights of the state, a local government or of any private persons;

(l) documents containing the name of every official and final records of voting in all proceedings of the Public Authority;

(m) files containing applications for any contract, permits, grants, or agreement entered into by the Public Authority;

(n) a list of reports, documents, studies, or publications prepared by independent contractors for the Public Authority;

(o) materials containing information relating to any grant or contract made by or between the Public Authority and another government, public institution or private organization; and

(p) the title, designation, name and address of the appropriate officers or employees of the Public Authority to whom a request for access to information or records under this Act should be sent.

(3) Any person entitled to the right of access to information conferred by this Act shall have the right to institute proceedings in a Court to compel the head of any Public Authority, to comply with the provisions of this section.

Appointment and Training Of Public Information of officials.

26 (1) Subject to (3) and (4), a public authority shall appoint as many public information officers in all offices or units as they have at the local, district, provincial and national levels as necessary to enable it to provide information to persons requesting information under this
Act.

(2) Where for any reason, a public authority has not appointed a public information officer, the head of the public authority shall for purposes of this Act be deemed to be the public information officer of that public authority.

(3) A public information officer shall be the principal contact person within a public authority to deal with requests from persons seeking information from the public authority and shall take all reasonable steps to assist any person seeking to exercise any right under this Act.

(4) A public information officer shall be of sufficient rank within the public authority to be empowered to make binding decisions in relation to information disclosure under this Act.

(5) Notwithstanding sub-section (3), it is the duty of every public officer to assist a person seeking information under this Act and no public officer may refuse to receive a request for information on the ground only that the public officer is not a public information officer.

(6) A public officer other than a public information officer to whom a request for information is made under sub-section (5), shall refer the person seeking information to a public information officer, and if no such officer is immediately available, shall receive the request and issue a receipt therefore, indicating thereon the public officer's name and designation and that the request is to be forwarded to the appropriate public information officer.

(7) Notwithstanding any other provision in this Act the administrative officer responsible for –

(a) a location;
(b) a division;
(c) a district; and
(d) a province

as existing or as established under any law shall be a public information officer for purposes of this Act.

PART V – ADMINISTRATIVE PROVISIONS

Appointment of Information Commissioner

27.(1) There shall be an Information Commissioner who shall be appointed by the President on the recommendation of the Minister, after necessary consultation with civil society and subject to the approval of Parliament.

(2) No person shall be appointed Information Commissioner, if that person –

(a) is an employee of a political party, or holds an elected or appointed position in central or local government; or

(b) has been convicted a crime involving dishonesty or theft.

(3) The Information Commissioner shall hold office for a term of five years and shall be eligible for re-appointed to a further term of five years only

Functions and powers of Information Commissioner.

28. (1) The Information Commissioner shall have all powers direct or incidental, as are necessary to undertake his functions under this Act, including the power to acquire, hold and dispose of property.

(2) Notwithstanding the generality of subsection (1), the Commissioner shall have powers to-

(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 at specific Public Authorities;

(c) co-operate with or undertake training activities for Public Authorities on the right to information and the effective implementation of this Act;

(e) refer to the appropriate Public Authority, cases which reasonably disclose evidence of criminal offences under this Act; and

(f) publicise the requirements of this Act and the rights of individuals under it.

(2) (l) In the performance of its functions under this Act, the Commission shall have the powers of a court to –

(a) issue summonses or other orders requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;

(b) question any person in respect of any subject matter under investigation before the Commission;

(c) require any person to disclose any information within such person's knowledge re1evant to any investigation by the Commission.

(3) The Commission may, if satisfied that there has been an infringement of the provisions of this Act, order-

(a) the release of any unlawfully withheld information;

(b) the payment of compensation; or

(c) any other lawful remedy or redress.

(4) A person or authority dissatisfied with an order made by the Commission under (2) may appeal to the High Court within twenty-one days of such order.

(5) An order of the Commission under subsection (2) may be filed in the High Court by any party thereto in such manner as the Commission may, in Regulations made in consultation with the Chief Justice, prescribe and such party shall give written notice of the filing of the order to all other parties within thirty days of the date of the filing of the order.

(6) If no appeal is filed under (3), the party in favour of whom the order is made by the Commission may apply exparte by summons for leave to enforce such order as a decree and the order may be executed in the same manner as an order of the High Court to the like effect.

(7) A person who -

(a) fails to attend before the Commission in accordance with any summons or order issued under subsection (1a}; or

(b) having attended before the Commission, refuses to be sworn or to make an affirmation, or having been sworn or affirmed, refuses without lawful excuse, to answer any question or to produce any information; or

(c) knowingly gives any false or misleading information to the commission; or

(d) causes an obstruction or disturbance in the course of any proceedings before the Commission, commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand shillings, or to imprisonment for term not exceeding six months, or to both.

Powers Relating to Investigation

29 (1) The Commission may, for the purpose of conducting any investigation pertaining to an inquiry, utilise the services of any public servant or investigation agency of the Government and where a public servant is so utilised under this subsection, the Commission shall pay such public servant or agency for the service rendered.

(2) For the purpose of investigating any matter pertaining to an inquiry, a public servant or agency whose services are utilised under (1) may, subject to the direction and control of the Commission -

(a) summon and enforce the attendance of any person for examination;

(b) require the discovery and production of any information; and

(c) subject to the provisions of this Act, requisition any public records or copy thereof from any public servant.

(3) The provisions of section 16 shall apply in relation to any statement made by a person before any public servant or agency whose services are utilised under subsection (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The public servant or agency whose services are utilised under subsection (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission in that behalf.

(5) The Commission shall satisfy itself on the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under subsection (4) and for that purpose, the Commission may make such inquiry (including the examination of any person or persons who conducts or assists in the investigation) as it deems fit.

Other staff

30. (1) The Information Commissioner shall be assisted by a secretariat consisting of a executive secretary, Finance Officer, Administrative Officer and such other additional technical and administrative staff, as may be required for the efficient performance of his functions under this Act.

(2) The Finance Officer and the other staff shall be appointed by the Information Commissioner, subject to such terms and conditions as the Information Commissioner after consultation with the Minister shall determine.

Executive Secretary

31(1) There shall be an executive secretary to the Commission who shall be appointed by the Commission upon such terms and conditions of service as the Commission may determine.

(2) Subject to the general control of the Commission, the Executive Secretary shall –

(a) be responsible for the carrying out of the policy decisions of the Commission and the day-to-day administration and management of the affairs of the Commission and the control of the other staff of the Commission; and

(b) perform such other function as may be assigned by the Commission.

(3) The Executive Secretary shall, unless in any particular case the Commission otherwise directs in writing, attend all meetings of the Commission but shall have no vote on any matter falling to be decided by the Commission at any such meeting.

Protection of officers

32. No criminal or civil proceedings shall lie against the Information Commissioner or other staff in respect of any matter or thing done in good faith under this Act.

Independence

33. The Information Commissioner and his authorised agents in the performance of their functions under this Act shall not be subject to the directions or control of any person or authority.

PART VI – FINANCIAL PROVISIONS

Funds .

34. (1) The activities of the Information Commissioner shall be financed by funds consisting of –

(a) any moneys appropriated from time to time by Parliament for the activities of the Information Commissioner;

(b) all moneys given to the Information Commissioner by way of gifts, endowments, bequest, grant or other contributions by persons and organisations for the purposes of the activities of the Information Commissioner;;

(d) all returns on investment, if any;

(e) foreign aid and assistance from donor agencies;

(f) all other moneys which may, from time to time, accrue to the Information Commissioner.

(2) The funds of the Information Commissioner shall be applied only for the purposes of the approved budget of the Minister.

Accounts and Audit.

35. (1) The Information Commissioner shall keep proper books of account and other records in relation to his activities, property and finances in a form approved by the Auditor-General, and shall prepare in respect of each financial year of the Authority a financial statement which shall include -

(a) balance sheet accounts;

(b) income and expenditure accounts; and

(c) source and application of funds;

(2) The accounts to be kept by the Information Commissioner under subsection (1) shall, not later than two months after the end of each financial year, be audited by the Auditor-General or an auditor appointed by him.

(3) For the purposes of subsection (2), the Auditor-General or the auditor appointed by him shall be entitled to have access to all books of account, vouchers and other financial records of the Information Commissioner and to require such information and explanation thereon as he may think fit.

(4) The Information Commissioner shall provide the Auditor-General or the auditor appointed by him with all necessary and appropriate facilities for the examination of his accounts and records.

(5) The Auditor-General or the auditor appointed by him shall submit to the Information Commissioner a report on the audited accounts and the financial statements referred to in subsection (1) and shall, in his report draw attention to -

(a) any irregularities in the accounts;

(b) any matters that are likely to adversely affect the operations of the Information Commissioner; and

(c) any other matter which, in his opinion, ought to be brought to the notice of the Information Commissioner.

Financial year.

36. The financial year of the Information Commissioner shall be the same as the financial year of the Government.

Annual report.

37. (1) The Information Commissioner shall, within three months after the end of the financial year, submit to the Minister a report on the performance of its functions during that year and on its policy and programmes.

(2) The annual report shall include the accounts and annual financial statement prepared under section 29 and the report of the audit thereon.

(3) The Minister shall lay copies of the annual report before Parliament within two months after he has received the report.

(4) The Information Commissioner shall make copies of the report available to all stakeholders once it has been laid before Parliament.

PART VII - APPEALS

Complaint.

38. (1) A Public Authority may create an internal appeal mechanism which requesters may use, where they wish to complain that they have not been provided with information in accordance with this Act.

(2) An internal appeals mechanism created by a Public Authority under subsection (1) shall be inexpensive, simple and shall require disposal of the appeal in not more than 21 days.

Review by Commiss-ioner.

39. A person who has made a request for information to a Public Authority , may apply to the Information Commissioner for a review of the decision of the Public Authority and to ascertain whether the Public Authority failed to comply with an obligation under this Act, including –

(a) refusing to indicate whether or not it holds a record, or to provide access to information, contrary to section 2 ;

(b) failing to respond to a request for information within the time limits established in section 5 ;

(c) failing to communicate information in the form requested, contrary to section 6;

(d) charging an excessive fee, contrary to section 4;

(e) refusing to accept an application requesting access to information; or

(f) any other matter relating to a request for or access to information under the Act

Burden of Proof.

40. In any application made under section 32, the burden of proof shall be on the Public Authority to show that it acted in accordance with its obligations under this Act,.

Commissioner's powers to investigate.

41.(1) The Information Commissioner shall have the power to conduct a full investigation on any matter under this Act, including the power to:

(a) to summon and enforce the appearance of persons before the Information Commissioner and compel them to give oral or written evidence on oath and to produce such documents and things as the Information Commissioner deems necessary to the full investigation and consideration of the complaint, in the same manner and to the same extent as a superior court of record;

(b) to administer oaths;

(c) to receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as the Information Commissioner sees fit;

(d) to enter any premises occupied by any Public Authority to carry out therein such inquiries within the authority of the Information Commissioner under this Act as the Commissioner deems fit; and

(e) 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.

Review decision.

42. (1)The Information Commissioner shall, on the receipt of a application for review under section 33, as soon as is reasonably possible, and in any case not later than 15 days, after giving both the complainant and the relevant Public Authority an opportunity to respond to the complaint in writing, make an order -

(a) rejecting the application;

(b) requiring the Public Authority to take such steps as may be necessary to bring it into compliance with its obligations under the Act, including:

(i) by providing access to information,

(ii) by providing access to information in a particular form;

(iii) requiring a public or private body to compensate the complainant for any loss or other detriment suffered; or

(iv) imposing a fine on the Public Authority.

(6) The Commissioner shall serve notice of his decision, including any rights of appeal, on both the complainant and the Public Authority.

Appeal to Court

43.The complainant or the Public Authority may, within 45 days, appeal to the High Court for a review of the decision of the Information Commissioner.

PART VIII - OFFENCES AND PENALTIES

Offences.

44. Any person who wilfully –

(a) denies or obstructs the access of any other person to any record or information contrary to this Act;

(b) obstructs compliance by a Public Authority of any of its obligations under this Act;

(c) interferes with the work of the Information Commissioner or other officers of the Information Commissioner ;

(e) destroys record with an intent to deny access to a request made under this Act; or

(f) deliberately conceals or falsifies records or provides false, misleading, incomplete or inaccurate information in response to a request made under this Act,

commits an offence and on summary conviction shall be liable to a fine not exceeding two million Leones.

Other Offences.

45. (1) Any person who without reasonable excuse, fails to supply information requested under this Act, within the period specified in this Act, commits an offence and shall be liable on summary conviction, to a fine 500,000 Leones, for each day the offence continues.

(2) Any person who without reasonable excuse, refuses to accept an application for information requested under this Act, commits an offence and shall be liable on summary conviction, to a fine not exceeding 1,000,000 Leones.

PART IX: MISCELLANEOUS PROVISIONS

Regulations.

46. (1) The Minister may by statutory instrument make regulations as it considers necessary or expedient for giving effect to the provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Minister may, after consultation with the Commissioner, make regulations prescribing the following-

(a) training of officials under section 22;

(c) reports to the Commissioner under section 33;

(d) any notice required by this Act;

(e) any administrative or procedural matter necessary to give effect to this Act;

(f) for the manner in which fees are to be calculated under subsection (4) of section 4;

(g) that no fee is to be charged in prescribed cases under subsection (4) of section 4; and

(h) that any fee cannot exceed a certain maximum under subsection (4) of section 4.

Repeal

47. Government shall amend and review the Official Secrets Acts, Public Order, internal rules, general orders and any other laws about disclosure of information to conform with the provisions and spirit of this Act and the principle of maximum disclosure.

MISCELLANEOUS

Whistle blowers Protection

48. 1) No person shall be penalized in relation to any employment, profession, voluntary work, contract, membership of an organization, the holding of any office or in any other way, as a result of having made or proposed to make a disclosure of information which the person obtained in confidence in the course of that activity if the disclosure is one which is in the public interest.

(2) Subject to sub-section (3), the provisions of (1) shall only apply where the person believes on reasonable grounds that the information is accurate

(3) For the purposes of sub-section (2), a disclosure which is made to the police or to an appropriate public authority shall be deemed to be made in the public interest.

(4) For the purpose of this section a person is penalized if the person is dismissed, discriminated against, made the subject of any reprisal or other form of adverse treatment or is denied any appointment, promotion or advantage that otherwise would have been provided; and the imposition of any such penalty in contravention of this section shall be actionable as a tort.

(5) Any term of any settlement arising from a claim under this section, insofar as it purports to impose an obligation of confidentiality on any party to the settlement in respect of information which is not inaccurate and which was or was proposed to be disclosed, shall be unenforceable.

(6) In any proceedings for an offence for contravention of any statutory prohibition or restriction on the disclosure of information it shall be a defence to show that in the circumstances the disclosure was in the public interest, and where the offence is alleged to have been committed by a public servant or Government contractor and involves the disclosure of information obtained by the person in the person's position as such, that the defendant had before making the disclosure complied with the provisions of sub-section (2).

Protection of bona fide actions

49. 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 or pursuant to this Act.

MEMORANDUM OF OBJECTS| AND REASONS

The object of this Bill is to foster a culture of transparency and accountability in Public Authorities by giving effect to the right of freedom of information and thereby actively promote a society in which the people of Sierra Leone have effective access to information to enable them to more fully exercise and protect public and private rights;

In that regard, the Bill aims to give effect to the fundamental Right to Information, which will contribute to strengthening democracy, improving governance, increasing public participation, promoting transparency and accountability and reducing corruption,

Furthermore, the Bill aims to 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 where the information is needed for the exercise or protection of a right, in a swift, effective, inexpensive and reasonable manner.

The Bill also aims to promote transparency, accountability and effective governance of all Public Authorities by including but not limited to empowering and educating all persons to:

(a) understand and exercise their rights in relation to Public Authorities;

(b) understand the functions and operation of Public Authorities; and

(c) effectively participate in decision making by Public Authorities that affects their rights