



GOVERNMENT OF SIERRA LEONE

DRAFT

**THE SIERRA LEONE FREEDOM OF
INFORMATION BILL 2010**

**MINISTRY OF INFORMATION AND
COMMUNICATION**

APRIL 2010

THE RIGHT TO ACCESS INFORMATION BILL, 2010

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A BILL ENTITLED

THE RIGHT TO ACCESS INFORMATION BILL, 2010

Preamble

A Bill for

An Act of Parliament to enable the public to access information in the possession of the Government and public authorities, to establish systems and processes to promote proactive publication and dissemination of information; and for connected purposes

WHEREAS: Article 19 of the Universal Declaration of Human Rights provides that everyone has the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers;

AND WHEREAS: Article 19 of the International Covenant on Civil and Political Rights provides that everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, or in print, in the form of art, or through any other media of his choice;

AND WHEREAS: Article 9 of the African Charter on Human and Peoples' Rights provides that every individual shall have the right to receive information and to express and disseminate opinions within the law;

AND WHEREAS: Sierra Leone is a State Party to the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights; the Atlanta and Accra Regional Plans of Action for the Advancement of the Right of Access to Information

AND IN ORDER: to foster a culture of transparency and accountability and actively promote a society in which the people have effective access to information to enable them to more fully exercise their rights and participate in the governance of the country, make informed democratic choices and hold public bodies and officials to account and to curb corruption;

NOW THEREFORE, IT IS ENACTED by the Parliament of Sierra Leone as follows -

Short Title **The Right To Access Information Act, 2010**

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

Interpretation.

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

“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, such as a book, plan, map, drawing, film, microfiche, diagram, pictorial or graphic work, data, photograph, recording, audio or video-tape, machine readable material or any other information held in electronic form, and also includes any sample, work, model or copy thereof;

"historical record" refers to a record which was created twenty or more years ago.

“official” means any person employed by a public authority, whether permanently or temporarily and whether part-time or full-time, and includes consultants working directly as individuals for the authority;

“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 a natural person who carries on a trade, business or profession, but only in such capacity, or a partnership or juristic person which carries on a trade, business or profession, but it does not include any a public authority;

“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; and

“personal information” means information about an identifiable individual which contains intimate details in respect of which that individual has a reasonable expectation of privacy.

“ICT” means Information Communication Technology

“National ICT policy of Sierra Leone” means the National ICT Policy of Sierra Leone developed by the Ministry of Information and Communication, and approved by government on 28 October, 2009.

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.

(2) 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.

(3) 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.

(4) Any person making a request for information to a public authority shall be entitled –

- (a) to have the public authority confirm or deny whether it holds information of the description specified in the request; and
- (b) Where the public authority holds information of the description specified in the request, to have that information communicated to him.

(5) A public authority shall be deemed to have complied with subsection (4) if it has communicated the information to the applicant.

(6) In this Act, the duty of a public authority to comply with subsection (4)(a) shall be referred to as “the duty to confirm or deny”.

Submission and form of request.

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

- (a) in writing;
- (b) describe the information requested; and
- (c) provide an address, which may be an email, for purposes of 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) 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 subsection (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 subsection (3), the public information officer who receives the request shall render such reasonable assistance, free of charge, as may be necessary to enable the request to comply with that subsection.

(7) A request referred to in subsection (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

(11) Public authorities shall record and maintain records of all requests for information and all public transactions in a manner that facilitates the right to information.

Time Limits for Compliance.

4. (1) Section 2 shall be complied with as soon as possible, and in any event within fifteen working days of receipt of the application.

(2) Provided that where the information sought concerns the life or liberty of a person, section 2 shall be complied with within forty-eight hours of receipt of the application.

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

(4) Any failure to conform to the timelines set out in this section shall be a deemed refusal of the request, for purposes of complaints and appeals.

Transfer of Application.

5. (1) Where a public authority does not hold information which is responsive to a request, or part of a request, that request, or any relevant part of it, may, no later than three days from the date of its receipt, be transferred to another public authority if the information requested is held by that other public authority.

(2) Where an application is transferred under subsection (1), the applicant shall be informed of the transfer immediately, and in any event no later than three working days from the date of the transfer.

(3) A public authority to which an application is referred under subsection (1) shall decide the request in accordance with the timelines set out in section 4, to run from the day upon which the public authority receives the referred request.

Fees.

6. (1) A public authority to which 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 be 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 not exceed the reasonable, cost-based amount for reproducing and sending the information to the applicant, and shall be in accordance with any regulations made by the Minister under this Act.

(4) Regulations made by the Minister under subsection (3) may, in particular, provide that no fee shall be payable under this section in the following cases:

- (a) where the applicant falls below a certain income level;
- (b) where the request is for personal information relating to the applicant; or

- (c) where the request is in the public interest, for example because the applicant intends to public the 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.

Communication of request.

7. (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) providing the applicant with a copy, certified or otherwise, of the information in permanent form or in another form acceptable to the applicant, such as an electronic form;
- (b) giving the applicant a reasonable opportunity to inspect a record containing the information;
- (c) providing the applicant with of a digest or summary of the information in permanent form or in another form acceptable to the applicant; or
- (d) allowing the applicant to take notes, extracts and samples of any material.

the public authority shall so far give effect to that preference.

(2) A public authority shall not be required to comply with subsection (1) where to do so would -

- (a) be detrimental to the preservation of the record;
- (b) unduly divert the resources of the public authority; or
- (c) breach a copyright not held by the public authority.

(3) Where a public authority does not, pursuant to subsection (2), comply with any preference expressed by the applicant in communicating the information, it shall –

- (a) notify the applicant of the reasons for this; and
- (b) communicate the information to the applicant by any means reasonable in the circumstances.

Proactive Publication.

8. (1) The following classes of information form the core Proactive publication obligations for every public authority –

- (a) the particulars of its organization, functions and duties;
- (b) the powers and duties of its officers and employees;

- (c) the procedure followed in the decision making process, including channels of supervision and accountability;
- (d) the norms set by it for the discharge of its functions;
- (e) 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;
- (f) 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;
- (g) 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;
- (h) 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;
- (i) a directory of its officers and employees;
- (j) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations
- (k) the budget allocated to each of its agencies, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (l) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (m) particulars of concessions, permits or authorizations granted by it;
- (n) details in respect of the information, available to or held by it, reduced in an electronic form;
- (o) 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;
- (p) 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; and

- (q) 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.

(2) Every public authority shall adopt and disseminate widely, including on its website, a Publication Scheme which has been approved by the Information Commission, within six months of the coming into force of this Act or its establishment, whichever comes later.

(3) 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.

(4) 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 minimise the need for individuals to make requests for information.

(5) Every public authority shall publish information in accordance with its publication scheme.

(6) Every Publication Scheme shall, within seven years of the adoption of the first publication scheme by a public authority, cover all of the core proactive publication obligations set out in subsection (1).

(7) Anyone may institute proceedings in a court to compel the head of any public authority, to comply with the provisions of this section.

**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.

**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 Commissioner 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.

**Other Proactive
Obligations.**

11. (1) In addition to the items listed on its Publication Scheme, a public authority shall also -

- (a) publish all relevant facts while formulating important policies or announcing the decisions which affect the public;
- (b) provide to any person the reasons for any decision taken by it in relation to that person;
- (c) 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.
- (d) 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;
- (e) 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 its Publication Scheme and the requirements of subsection (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 subsection (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 electronic format.

PART III - EXEMPT INFORMATION

Exempt information.

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

Refusal of request.

13. 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 limits for complying with section 2, notify the applicant in writing stating -

- (a) that the information is exempt;
- (b) the specific exemption in question; and

(c) why the exemption applies.

Information accessible by other means.

14. (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 is reasonably accessible to the applicant.

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

- (a) information is reasonably accessible even though it is accessible only on payment, as long as the payment does not exceed the fees that would be applicable under this Act;
- (b) Information is reasonably accessible 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 be regarded as reasonably accessible 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.

15. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would, or could reasonably be expected to seriously prejudice national security and the defense of Sierra Leone.

International relations.

16. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would, or could reasonably be expected to seriously prejudice relations between Sierra Leone and any other state or inter-governmental body.

Economic interests.

17. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would, or could reasonably be expected to seriously prejudice the ability of the government to manage the economy.

Investigations and law enforcement.

18. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would, or could reasonably be expected to cause serious prejudice to -

- (a) the prevention and detection of crime;
- (b) the apprehension and prosecution of offenders; or
- (c) the administration of justice.

Third Party

19. The duty to disclose information shall not apply if,

information.

or to the extent that, compliance with section 2 would, in relation to information obtained by the public authority from a third party, would or could reasonably be expected to constitute a breach of confidence actionable by that third party.

Client professional privilege

20. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve a breach of the rules governing legally privileged information.

Personal matters

21. (1) The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the unreasonable disclosure of personal information concerning an individual.

(2) 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 is made to the individual to whom the information relates;
- (e) 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;
- (f) the information is already available to the public;
- (g) 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;
- (h) in the case of a deceased person, the applicant is the next of kin or represents the next of kin of the deceased;
- (i) the third party has been deceased for more than 20 years.

Commercial interests.

22. The duty to disclose information shall not apply if, or to the extent that, in relation to information obtained by the public authority from a third party, compliance with section 2 would divulge a trade secret, or would or could reasonably be expected to seriously prejudice the commercial interests of that third party.

Public

23. The duty to disclose information shall not apply if, or

economic interests. to the extent that, compliance with section 2 would or could reasonably be expected to seriously prejudice the commercial interests of a public authority.

Historical records. 24. (1) Access to a historical record shall not be denied under this Part unless the Information Commissioner certifies that there is an ongoing need for it to be kept confidential.

Severability. 25. 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

Maintenance of records. 26. (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.

Appointment and Training of Public Information officials. 27. (1) Subject to subsections (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.

(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 subsection (3), it is the duty of every official to provide reasonable assistance to a person seeking information under this Act and no official may refuse to receive a request for information on the ground only that her or she is not a public information officer.

(6) An official other than a public information officer to whom a request for information is made under subsection (5), shall refer the person seeking information to a public information officer and, if no such officer is immediately available, the official shall receive the request ensure that it is forwarded to the appropriate public information officer, and he or she shall also issue a receipt for the request, indicating thereon his or her name and designation.

(7) A public information officer may seek the assistance of any other official that he or she considers necessary for the proper discharge of his or her duties, and such other official shall render the required assistance.

Development of Information Communication Facilities

28. Public authorities shall develop, for the purposes of this Act, Information Communication Technology units in accordance with the National ICT Policy of Sierra Leone, to;
- a. facilitate access to information
 - b. ensure transparency and accountability
 - c. improve record-keeping

PART V – ADMINISTRATIVE PROVISIONS

Appointment of Information Commissioner.

29.(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.

Functions and powers of Information Commissioner.

(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

30. (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;
- (d) refer to the appropriate public authority, cases which reasonably disclose evidence of criminal offences under this Act; and
- (e) publicise the requirements of this Act and the rights of individuals under it.

(3) In the performance of its functions under this Act, the Commissioner shall have the powers of a court to –

- (a) issue summonses or other orders requiring the attendance of any person before the Commissioner to give oral or written evidence and the production of any document or record relevant to any investigation by the Commissioner;
- (b) issue oaths;
- (c) question any person in respect of any subject matter under investigation before the Commissioner;
- (d) require any person to disclose any information within such person's knowledge relevant to any investigation by the Commissioner; and
- (e) enter any premises occupied by a public authority to carry as relevant to any investigation by the Commissioner.

(4) The Commissioner 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.

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

(6) An order of the Commissioner under subsection (2) may be filed in the High Court by any party thereto in such manner as the Commissioner 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.

(7) If no appeal is filed under (3), the party in favour of whom the order is made by the Commissioner may apply ex parte 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.

(8) A person who -

- (a) fails to attend before the Commissioner in accordance with any summons or order issued under subsection (2);
- (b) having attended before the Commissioner, 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;
- (c) knowingly gives any false or misleading information to the Commissioner; or
- (d) causes an obstruction or disturbance in the course of any proceedings before the Commissioner;

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.**

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

(2) For the purpose of investigating any matter pertaining to an inquiry, an official or agency whose services are utilised under

subsection (1) may, subject to the direction and control of the Commissioner -

- (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 record or copy thereof from any official.

(3) The provisions of section 16 shall apply in relation to any statement made by a person before any official 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 Commissioner.

(4) The official 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 Commissioner in that behalf.

(5) The Commissioner 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 Commissioner 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.

32. (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.

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

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

- (a) be responsible for the carrying out of the policy decisions of the Commissioner and the day-to-day administration and management of the affairs of the Officer of the Commissioner and the control of the other staff of the Commissioner; and
- (b) perform such other function as may be assigned by the Commissioner.

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

Protection of officers.

34. 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.

35. 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 .

36. (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; and
- (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.

37. (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.

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

Annual report.

39. (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 annual report shall also include an overview of the performance of all public authorities in implementing this Law.

(4) To enable the Commissioner to comply with subsection (3), every public authority shall report annually to the Commissioner on the steps it has taken to implement the law, including by reporting on the requests for information it has received, and how these have been dealt with, including as to any appeals.

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

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

PART VII - APPEALS

Complaint.

40. (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.

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(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 Commissioner.

41. 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.

43. 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,

Review decision.

44. (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.

(2) The Commissioner shall serve notice of his decision, including any rights of appeal, on both the complainant and the public authority.

Appeal to Court.

45. 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.

46. 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 ;
 - (d) destroys record with an intent to deny access to a request made under this Act; or
 - (e) deliberately conceals or falsifies records or provides false, misleading, incomplete or inaccurate information in response to a request made under this Act,

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

**Other
Offences.**

47. (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 not exceeding 1,000,000 Leones.

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(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.

48. (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;
- (b) reports to the Commissioner under section 33;
- (c) any notice required by this Act;
- (d) any administrative or procedural matter necessary to give effect to this Act;
- (e) for the manner in which fees are to be calculated and the maximum fee under section 4; and
- (f) that no fee is to be charged in prescribed cases.

Repeal.

49. (1) This law takes precedence over any other law, including the Official Secrets Act, to the extent of any inconsistency.

(2) Government shall review any internal rules, general orders and regulations affecting the disclosure of information with a view to amending them as necessary to conform to the provisions and spirit of this Act, and the principle of maximum disclosure.

MISCELLANEOUS

**Whistleblower
Protection.**

50. (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 subsection (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 subsection (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 an official 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 subsection (2).

**Protection of
bona fide actions.**

51. 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.