

A CITIZEN'S MANUAL ON
SRI LANKA'S

RIGHT TO INFORMATION LAW



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Sri Lanka Press Institute

A CITIZEN'S MANUAL ON SRI LANKA'S RIGHT TO INFORMATION LAW

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Compiled by :
Menaka Lecamwasam

Design and Layout :
Nilantha Manjula

Illustrations :
Namal Amarasinghe

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Project coordination by:
The Sri Lanka Press Institute (SLPI)
96, Kirula Road, Colombo – 05,
Sri Lanka.
T : +94-11-5353635
Fax : +94-11-5335500
E : info@slpi.lk W: www.slpi.lk

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ABOUT THE SRI LANKA PRESS INSTITUTE

The Sri Lanka Press Institute (SLPI) is established by the Newspaper Society of Sri Lanka, The Editors' Guild of Sri Lanka, the Free Media Movement, and the Sri Lanka Working Journalist Association, to provide direction and leadership in media related activities. This includes the Press Complaints Commission of Sri Lanka (PCCSL), which encourages self-regulation and accountability and provides readers the right to challenge or correct reporting, while the Sri Lanka College of Journalism (SLCJ) is the training arm focusing on skills development for the journalistic profession. Overall, the mandate of the Sri Lanka Press Institute is to create a professional body of journalists which is responsible and accountable to the public.

The SLPI strives to maintain good governance, human rights, gender equity and poverty alleviation. It is a well-established fact that a diverse, professional and vibrant media can address these areas in a positive way, while a malfunctioning media does the opposite. The SLPI is a great believer in this argument. As such its advocacy to enact the Right to Information (RTI) has been from the inception of the Colombo Declaration in 1998, which was subsequently revisited in 2008. This project, funded by the United States Department of State, is one of the initiatives taken by SLPI in securing good governance and Freedom of Expression in Sri Lanka.

Board and Management of the Sri Lanka Press Institute (2016)

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QUICK ACCESS

Requests for information

Requests should have all necessary information to identify the specific information you request including the nature and language of access. Except contact details of yourself, other personal details need not be given.

Easy accessibility

Public Authorities should facilitate easy and hassle-free access to information, within a specific time period. You need not run around to submit a request for information or an appeal.

Accessible information

When given access, you have the right to inspect relevant information; take notes, extracts or certified copies of documents or records; take certified samples of material; obtain information in the form of diskettes, floppies, tapes, video cassettes or any other electronic mode or through printouts.

Fees for an RTI request

The requestor has to pay a fee according to the schedule of fees which the Right to Information (RTI) Commission will prescribe.

Contacting the Commission

If you need to contact the RTI Commission, you can get contact details from the relevant Public Authority prominently displayed in the premises of every Public Authority and on the websites.

Public Disclosure

The overriding principle of the Act is public disclosure. All exemptions to an RTI request are subject to disclosure in the public interest.

Scope of Public Authorities

Public Authorities under the Act are not limited to Government bodies but include private and non-governmental bodies in certain contexts.

Proactive Disclosure

All Public Authorities are required to proactively disclose information within the guidelines of the Act.

Chapter 1

Introduction

Introduction*

Despite years of requesting the local authority to repair the road to your neighbourhood, it has not done so. Do you know that you have a right to know what happened to the money which was allocated to repair that road? Do you also know that you have a right to know why your child was not accepted to the closest school? Not only that, you can ask the private company which operates a bottled water plant in your neighbourhood for its environmental safety compliance record provided that the company has at least twenty five per centum of its shares controlled by the State and/or a public corporation.

The RTI law empowers citizens to call for transparency and accountability of the State which exercises the sovereign powers of the People and Public Authorities including private entities which have an impact on public life. This increases the proactive and meaningful participation of citizens in public life which is an essential element of democracy.

While RTI was not constitutionally recognized until recently, the Supreme Court of Sri Lanka had, through a process of interpreting existing provisions protecting inter alia, rights of freedom of expression and opinion, implicitly recognized RTI. ¹

Subsequent to the 19th Amendment, the Constitution of Sri Lanka guarantees the right of access to information in Article 14A subject to certain identified restrictions. Constitutional restrictions on access to information are however broader in scope than the grounds on which an RTI request may be refused under the RTI Act. ²

*This Manual was compiled during July to September 2016. The compiler is grateful to Mr. Sinha Ratnatunga, Deputy Chairman of the Sri Lanka Press Institute (SLPI) and Ms. Kishali Pinto-Jayawardena, legal advisor to The Editors Guild for the guidance provided in this effort.

¹ *Visulingam v. Liyanage* (1984) 2 SLR 123, *Fernando v. The Sri Lanka Broadcasting Corporation* (1996) 1 SLR 157, *Environmental Foundation Limited v. Urban Development Authority* (2005).

² For instance, (apart from the common restrictions relating to national security, contempt of court etc), the protection of health or morals and the reputation or the rights of others are also mentioned. The RTI law has no such general grounds of denial. Instead RTI requests can be refused on narrowly tailored grounds, i.e. the existence of a fiduciary relationship or grave prejudice to the prevention of crime etc. Also under the RTI Act, even the exempted information may be released in the greater public interest.

In any event, constitutional provisions alone are inadequate to secure the right to information. It is necessary to provide a legislative framework specifying procedures, establishing institutional structures to implement the right to information, and spelling out exceptions. This also requires formulating administrative guidelines to public officers in discharging their duties.

On 23 June 2016, the Parliament of Sri Lanka, in a celebrated move, enacted the Right to Information Act to give meaning to the citizen's Fundamental Right to Information.

Sri Lanka's struggle to enact an RTI law was long and difficult. In 1995, a Committee headed by senior lawyer Mr. R.K.W. Goonesekere was appointed to advise (the then Government) on the reform of laws affecting media freedom and freedom of expression. The Committee recommended drafting a Freedom of Information Act. Following the report of the Commission in 1996, the Sri Lanka Law Commission, headed by Justice A.R.B. Amerasinghe, prepared a draft Freedom of Information Bill. The 2000 Draft Constitutional Bill also included a 'Right to Information' clause but the Bill never passed the seal of Parliament.

Meanwhile, Sri Lanka's print media industry had embarked on a vigorous campaign to bring an RTI law to the country's statute books. Back in 1998, the Colombo Declaration on Media Freedom and Social Responsibility, and its subsequent revision in 2008, led by the Sri Lanka Working Journalists Association, Free Media Movement, Newspaper Society of Sri Lanka, and The Editors' Guild of Sri Lanka, emphasized the need for a RTI law in Sri Lanka.

Subsequently, a Prime Ministerial Committee³ drafted the 2004 Freedom of Information Bill which was approved by the then Cabinet and tabled in Parliament. With the premature dissolution of that Parliament, the Bill was never debated. This draft Bill was revised in 2010, as a result of an initiative taken by the then Justice Minister Milinda Moragoda. As the general elections intervened, the Bill was never presented to Parliament. In 2011, Mr. Karu Jayasuriya, then an Opposition MP, presented the 2004 draft Freedom of Information Bill as a private member's Bill. This Bill too was not taken up for debate in Parliament. Later, the

³ Mr. Sinha Ratnatunga (then President of The Editors Guild), Mr. Waruna Karunatilake (then Convenor, Free Media Movement), Ms. Kishali Pinto-Jayawardena (then adviser to The Editors' Guild), Mr. Rohan Edrisinha, and Mr. Asanga Welikala both representing the Centre for Policy Alternatives together with then Attorney General K.C.Kamalasabeyson PC, then Secretary to the Ministry of Justice Dhara Wijetilake and the late Ms. Sriyanganie Fernando formerly of the Legal Draftsman's Department with Prime Minister Ranil Wickremesinghe as Chairman and Mr. Bradman Weerakoon as the Secretary.

Lessons Learnt and Reconciliation Commission (LLRC) in its final report in 2011 recommended that the Government introduce RTI legislation, which was also included as an action point in the 2013 LLRC's National Action Plan.

The current RTI Act was prepared by a drafting committee under the auspices of the Ministry of Parliamentary Reforms and Mass Media based on an updated draft of the 2004 Freedom of Information Bill.⁴ The stated purpose of the Act is to foster a culture of transparency and accountability in Public Authorities by giving effect to the right of access to information and thereby promote a society in which the people of Sri Lanka would be able to more fully participate in public life through combating corruption and promoting accountability and good governance. The Minister in charge of the subject of Mass Media is given the responsibility of effectively implementing the Act.⁵

While trilingual copies of the Act are available to the public in order to enable access to understanding and use of the law, its contents are not easily understood by laymen due to the use of legalistic language in the Act as is common with all statutes. This impediment to understanding the content of the Act may prevent the citizen from reaping the full benefits of the Right to Information ensuring their fundamental rights and good governance of the country.

Therefore, this Manual attempts to provide the entirety of the RTI Act in a simplified form so that the citizen would fully comprehend the contents of the Act and utilize its provisions to closely scrutinize governance structures and make the Government more accountable to the People. It must be kept in mind however that this Manual only provides a guideline to the provisions of the Act. For fuller understanding of the relevant provisions, it would be necessary to always reference the Act itself, which is annexed at the end of the Manual.

⁴ SLPI's role in the RTI struggle was continued by the representation of Mr. Sinha Ratnatunga (Deputy Chairman), Mr. Waruna Karunatilake and Ms. Kishali Pinto-Jayawardena, in the 2015/2016 RTI Law drafting committee.

⁵ Section 2 of the RTI Act No. 12 of 2016

Chapter 2

What is Right to Information?

- 2.1 The Importance of the Act
- 2.2 Some Basic Principles of the Act
- 2.3 Accessible Information

2.1 The importance of the Act

- Decisions of the Government and public bodies affect the lives of citizens.⁶ Therefore, citizens need to be part of the decision-making process which has an impact on them.
- Citizens have a right to know of Government decisions which are relevant to them.
- The Government, public bodies, and even private entities which impact public life in turn, are answerable to the citizens.
- The Act facilitates citizens to exercise their Fundamental Right to Information guaranteed by the Constitution
- The Act sets out the procedure and mechanisms to follow in obtaining information from Public Authorities.

2.2 Some Basic Principles of the Act

- The **principle of maximum disclosure** requires the Government to publish as much information as possible.
- Thus official information in their possession should be available to the public.
- The burden is on the Government to justify the denial of information.
- The **principle of proactive disclosure**.⁷ This means publicizing information of Public Authorities as a matter of course so that citizens do not have to pay a fee to access such information. Information then becomes more affordable.
- The **principle of obligation to publish**. This means that a Public Authority should publish and disseminate information important to the public on its own accord without merely responding to requests for information.
- The **principle of disclosure takes precedence**. This guarantees that all laws inconsistent with the principle of maximum disclosure should yield to the RTI Act. The Act will take precedence over any other enacted law in that regard.⁸

⁶ Citizens are persons who have acquired citizenship through birth or registration. For the purposes of the RTI Act, this also includes an incorporated or unincorporated body of which three quarters (¾) of the membership consists of citizens. This definition is similar to Section 121(1) of the Constitution.

⁷ Section 14(e)

⁸Section 4

2.3 Accessible information

- Accessible information includes; records, documents, memos, emails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, correspondence, memorandum, draft legislation, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, video tape, machine readable record, computer records and other documentary material, in whichever physical form it is.⁹
- This could also relate to issues concerning projects that directly affect the people such as health, education, environment etc.
- But, certain types of information could be denied under certain circumstances, which are set out in detail in chapter 6 of this Manual.
- It is important to note that even where information can be denied under this law, there is an overriding **public interest** factor that can open the door to the availability of such information.

Certain provisions of the RTI Act¹⁰ came into operation on the date of the Speaker's certification.¹¹ These included the establishment of the Right to Information Commission and the appointment of Information Officers. All remaining provisions will come into operation after the Minister in charge of the subject gazettes the same within a period of 6-12 months of the Act coming into operation.¹²

⁹ Section 43

¹⁰ Part IV, sections 1, 23, 36, 40, 41, 42, 43 and 44.

¹¹ Section 1(2). The date of certification is 04 August 2016

¹² Section 1(3)

Chapter 3

Duties of Ministers and Public Authorities

- 3.1 Do Public Authorities have any duties under the Act?
- 3.2 How should Public Authorities maintain records?
- 3.3 Do Ministers have any duties under the Act?
- 3.4 Do Public Authorities have an obligation to report to the Commission?
- 3.5 Can officers of Public Authorities be held liable for duties performed under this Act?

To give full effect to the citizens' Right to Information, the Act casts certain duties and responsibilities on ministers and Public Authorities. These duties include, maintaining proper records to facilitate easy access to records and the obligation to report to the Commission of its activities. It is the duty of Public Authorities to constantly improve the effectiveness of the systems in order to increase transparency.

3.1 Do Public Authorities have any duties under the Act?

- **YES.** Public Authorities have a duty to maintain all their records and documents in a proper manner. This means records have to be properly catalogued and indexed for easy, hassle-free accessibility.¹³
- If the Commission issues any directions pertaining to properly maintaining its records, the Public Authority must follow the directions of the Commission.¹⁴

3.2 How should Public Authorities maintain records?

Public Authorities are also expected to maintain electronic formats of all their records provided they have sufficient resources to do so.

3.3 Do Ministers have any duties under the Act?

- **YES.** Ministers (of both the Central Government and Provincial Councils) have a duty to ensure reports are published twice every year (before 30 June and 31 December respectively).¹⁵
- The reports must have comprehensive information to assist citizens to exercise their Right to Information meaningfully.¹⁶
- The reports will be published in Sinhala and Tamil and made available in electronic format to the public.¹⁷

¹³ Section 7(1)

¹⁴ Section 7(2)

¹⁵ Section 8(1)

¹⁶ Section 8(1) and 8(2)

¹⁷ Section 8(4)(a)

- Additionally, hard copies of the reports will be available to citizens to inspect and obtain copies of, for a fee.¹⁸

3.4 Do Public Authorities have an obligation to report to the Commission?

- **YES.** They do. Every Public Authority has a duty to submit annual reports to the Commission which the public can access.
- The annual report ought to contain such information as the total number of requests received during the year, requests granted and requests denied, the amount of fees collected during the year and the number of times information was provided at the direction of the Commission. It must also include any suggestions for improving the effectiveness of the regime of transparency, the number of appeals received, and information or practices relating to maintaining records.¹⁹

3.5 Can officers of Public Authorities be held liable for duties performed under this Act?

NO. Officers of Public Authorities and Public Authorities themselves cannot be held liable, either for criminal matters or civil matters for performing in good faith the duties and/or exercising the powers given to them by this Act.²⁰ But if bad faith is shown, this amounts to an offence under the Act as explained later.

¹⁸ Section 8(4)(b)

¹⁹ Section 10

²⁰ Section 30

Chapter 4

Procedure to obtain Information

- 4.1 What is the procedure?
- 4.2 Information on a new project
- 4.3 Prescribed procedure for information provided by third parties
- 4.4 Fees
- 4.5 Can the public have access to past records of an indefinite period from a Public Authority?
- 4.6 What should the 'request for information' contain?
- 4.7 How soon can a decision be known?
- 4.8 Can the period for allowing access to information be extended?
- 4.9 How will information be provided to you?
- 4.10 Can you request a Public Authority to provide reasons for its decisions?
- 4.11 Can you know the reasons for refusing a request for information?

For the Right to Information to be meaningful, it is necessary to put in place procedures to obtain information easily. Every Public Authority is required to implement information delivering systems within their organizations, to publish lists of all information available to the public from that authority, and the cost of the information. They are also required to provide information within a reasonable time span. Public authorities are governed by the principles of maximum disclosure and proactive disclosure in releasing information to the public.

4.1 What is the procedure?

- Make a written request to the relevant Information Officer informing him/her of the specifics of the information needed.
- If you are unable to write your request, the Information Officer must assist you to make an oral request and write it down on your behalf. ²¹
- If you wish to make a request to a Public Authority to obtain information, or you have already made a request which is not in the approved format, the Information Officer must assist you, without charging a fee, to make the request in the approved format. ²²
- When an Information Officer receives a request, he/she should issue an acknowledgement stating that he/she has received the request. ²³
- If an Information Officer can provide a response to you, and you are satisfied with the response, the Information Officer must keep a record of the request and the response. ²⁴

4.2 Information on a new project

- The Minister in charge of the subject under which the project is implemented (i.e. a project valued at over US\$1 Million in the case of a foreign funded project and Rs.500,000/= in the case of a locally funded project)²⁵, has a duty to inform the general public as well as persons who are directly

²¹ Section 24(1)

²² Section 24(2)

²³ Section 24(3)

²⁴ Section 24(4)

²⁵ Section 9(3)

affected by the project three (03) months before the project begins, of the fact that the project will commence. All information in the possession of the Minister regarding the project must be made available to the public.²⁶

- If it is an urgent project, the information can be made available one (01) week prior to the beginning of the project but the reasons for such urgency will have to be communicated to the Commission.²⁷
- If you make a written request to the Minister during any phase of the project, the Minister has a duty to provide updated information to you, for a fee.²⁸

4.3 Prescribed procedure for information provided by third parties

- If you request confidential information which involves a third party, the Information Officer has to inform the third party in writing of the request within one week.
- The third party to whom the information is submitted then has to, within a week of being notified, either consent to disclosing such information or refuse disclosure with reasons.
- The Information Officer has to consider the response of the third party in making his decision.
- If the third party does not respond to the notice of request or consents to the disclosure, the Information Officer can disclose the information requested.
- If the third party does respond refusing disclosure, then the Information Officer has to refuse the requested information.²⁹
- However, even if the third party has refused to disclose the information, if you can prove that the disclosure is more important in the public interest than the private interests of the third party, then the Information Officer has to release the requested information.³⁰

²⁶ Section 9(1)(a)

²⁷ Section 9(1)(a) proviso

²⁸ Section 9(2)

²⁹ Section 29(1) & (2)

³⁰ Section 29 proviso

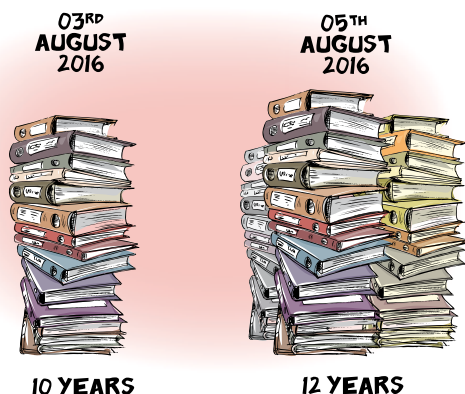
4.4 Fees

- The fees payable for information will be decided by the Commission.³¹
- Every Public Authority has a duty to prominently display within their premises the fees to be charged.³²

4.5 Can the public have access to past records of an indefinite period from a Public Authority?

NO. A Public Authority only has to maintain records which it had before 4th August 2016,³³ for a period of 10 years.³⁴

For any new records i.e. records that are made after 04th August 2016, a Public Authority only has to maintain such records for a period of 12 years from the date of making the record.³⁵



But, even after 10 or 12 years, the Public Authority cannot destroy its records if there is a 'request for information', an appeal, or a case in court pending regarding such records.³⁶

³¹ Under Section 25(4) of the Act, the Commission may prescribe that information (up to a certain limit) may be provided free of charge. The fee schedule to be laid down by the Commission will contain specific details regarding this matter.

³² Section 26(1)(d)

³³ 04th August 2016 is the date on which the Speaker certified the RTI Bill after being passed by Parliament. It is therefore the operative date of the Act.

³⁴ Section 7(3)(a)

³⁵ Section 7(3)(b)

³⁶ Section 7(4)

4.6 What should the ‘request for information’ contain?

- The request for information ought to be in writing but could be made even electronically. i.e. fax or e-mail. It should contain all information necessary for the Information Officer to identify the specific information requested. It should also include the nature and language of access. However, you do not have to give any other personal details to the Information Officer except contact details of yourself.³⁷

Eg: If you need the electronic format of the expenditure reports of Ministry X for the years 2014 and 2015 in English you should mention in the request that you need the requested reports in English and in electronic format.

- If the information requested is of vital importance to save the life of a person or it affects the personal liberty of a person, you should mention such fact in the request.³⁸

³⁷ Section 24(5)

³⁸ Section 24(5)(c)

Sample format for applications*

To: Information Officer,
(Name of the department)
(Postal Address)

1. **Full name of applicant:** Ms. Kamala Perera
2. **Address:** No.332, Galle Road, Moratuwa
3. **Phone Number:** 011 250----- **Email:** kamalap@gmail.com
4. **Application submission date:** 20 October 2016
5. **Name of the department:** Road Development Authority
6. **Details of information requested:** (Provide as much specific information as possible)

Eg: How much money was allocated to construct the alternative route between Moratuwa and Nugegoda?

How much money was actually spent on constructing the road?
Who was the contract awarded to? What were the tender specifications? What is the name and designation of the officer who verified the successful completion of the work?

7. **Period for which information is requested:** January 2010 to present
8. **Form and language of information requested:** Inspection of works/ inspection of records/ certified copies in English
9. **Details of fee payment :** Receipt No. xxx, dated 15 October 2016
10. **Other remarks:** (Whether the information requested is of vital importance to save the life of a person or it affects the personal liberty of a person)

Signature of the applicant

*This is only a sample format for applications. The RTI Commission will probably prescribe a format for applications which should be followed when making requests for information unless there is no such prescribed application form.

4.7 How soon can a decision be known?

- An Information Officer should inform you of his/her decision on whether the request is granted or not as soon as possible, at the latest within fourteen (14) working days of receiving the request. When a request is granted, access to the information will be given within fourteen (14) days.³⁹
- If the requested information concerns a citizen's⁴⁰ life and/or personal liberty, the response will be given within forty eight (48) hours.⁴¹

4.8 Can the period for allowing access to information be extended?

- **YES.** If access to information is allowed, the requirement to allow access within fourteen (14) days of the decision can be extended to a period of up to twenty one (21) days if the request is for a large number of records which would be administratively difficult to produce within 14 days. An extension could also be given if it is necessary to search for or collect the records from an office which is not located close by and therefore it is difficult to retrieve those within 14 days.
- If the period for providing information has to be extended, the Information Officer has to inform you of the reasons for the extension and the duration of the extension, within 14 days.
- You can lodge an appeal with the Designated Officer if you are not satisfied with the reasons for the extension.⁴²

4.9 How will information be provided to you?

- Information will be granted in the form it was requested for. However, if it would damage the document or record, an Information Officer can refuse to provide the information in the form requested. If the Information Officer is unable to provide the information in the requested form, he/she should assist you to explore alternative means of accessing information.⁴³

³⁹ Section 25(2). This means that a requester may need to wait a maximum of 28 days to access the requested information if the decision is favourable

⁴⁰ The Sinhala text of the Act provides for a request to be processed in this manner when the life or liberty of ANY citizen is affected. This is irrespective of whether he/she is the requester of information. The English text implies however that such a request for urgency must be made by a person who is himself/herself affected. However, the Sinhala version is what applies in case of a dispute.

⁴¹ Section 25(3)

⁴² Section 25(5)-(7)

⁴³ Section 27

Example: If you requested for a photocopy of the original 1815 Kandyan Convention which is housed in the National Archives, the Information Officer of the National Archives could refuse to do so as photocopying might damage the centuries-old document. The Information Officer may provide an alternative means of obtaining the information such as allowing you to photograph the document.

- When you are permitted access to information, you have the right to inspect relevant information; take notes, extracts or certified copies of documents or records; take certified samples of material; obtain information in the form of digital media or other electronic mode or through printouts.⁴⁴

You can even ask for a sample of the material i.e. a sample of the asphalt used for an ongoing road repair in your neighbourhood, to check whether it is up to acceptable safety and quality standards.

4.10 Can you request a Public Authority to provide reasons for its decisions?

YES. In general, any person affected by the decision of a Public Authority can request for reasons for the decision. The reasons must be given in writing.⁴⁵

4.11 Can you know the reasons for refusing a request for information?

YES. In specific instances, when an Information Officer refuses a request for information, the officer has to inform the requester of;

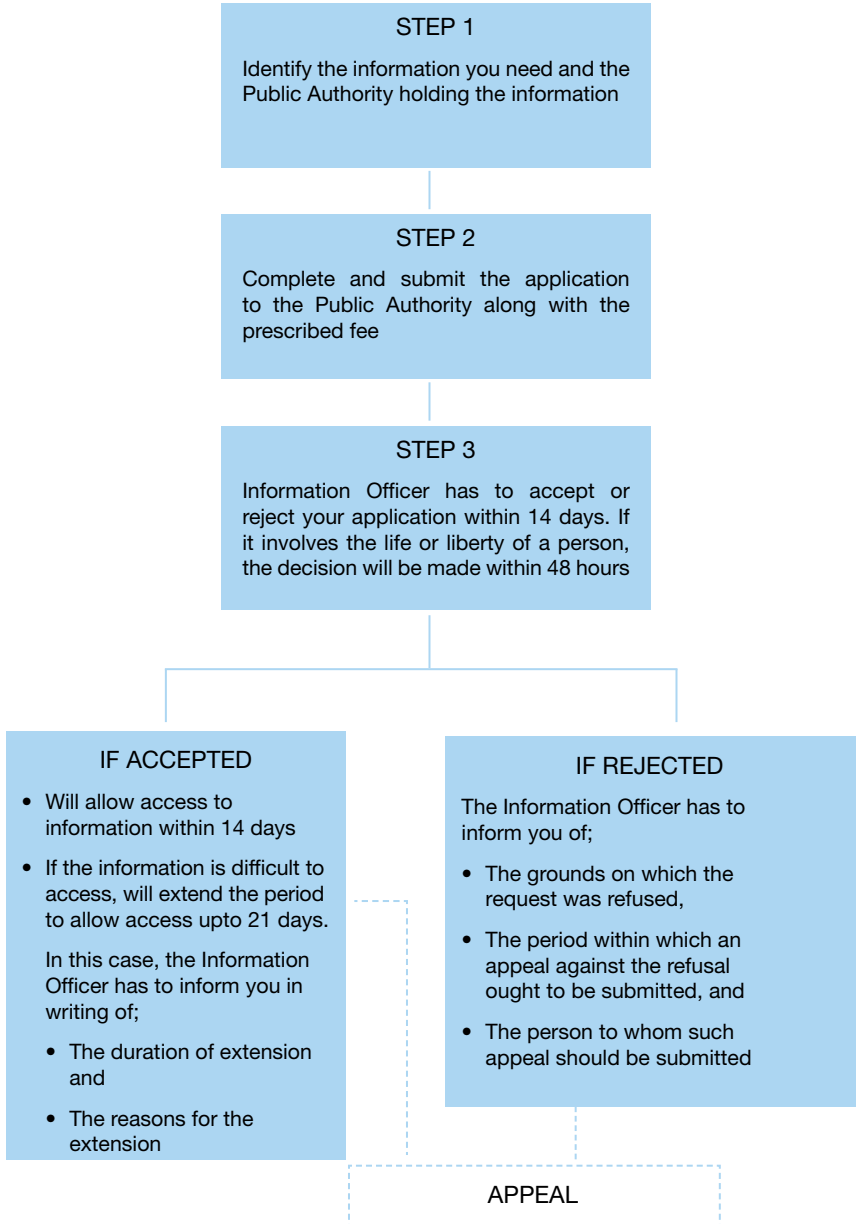
- the grounds on which the request was refused,
- the period within which an appeal against the refusal ought to be submitted, and
- the person to whom such appeal should be submitted.⁴⁶

⁴⁴ Section 27(3)

⁴⁵ Section 35

⁴⁶ Section 28

APPLICATION PROCESS



Chapter 5

Information Officers & Designated Officers

- 5.1 Who are Information Officers?
- 5.2 What are the duties of Information Officers?
- 5.3 Who are Designated Officers?
- 5.4 How do you contact an Information Officer or a Designated Officer?

Information Officers and Designated Officers play an important role in facilitating access to information. They are the first point of contact when a citizen needs to access information. They are obligated to assist citizens to access any information needed. Refusing to do so is unlawful. If they deny access to information, they have a duty to give reasons for their decisions. Therefore, they cannot deny information arbitrarily.

5.1 Who are Information Officers?

Every Public Authority must have an Information Officer. Sometimes there may be more than one Information Officer per Public Authority.⁴⁷

5.2 What are the duties of Information Officers?

- Information Officers deal with the requests for information their offices receive from the public. They must assist the citizens requesting information in any way possible.⁴⁸
- In providing these services, if the Information Officers need the assistance of their fellow officers, the fellow officers must mandatorily assist Information Officers.⁴⁹

5.3 Who are Designated Officers?

If you are not satisfied with the decision of the Information Officer, you can appeal against that decision to another officer in that Public Authority. This officer is called the “Designated Officer”. The Designated Officer will hear appeals against Information Officers and give a decision.⁵⁰

Until Information Officers are appointed, heads or Chief Executive Officers of Public Authorities will act as Information Officers of those Authorities.

⁴⁷ Section 23(1)

⁴⁸ Section 23(2)

⁴⁹ Section 23(3)

⁵⁰ Section 23(1)

5.4 How do you contact an Information Officer or a Designated Officer?

If you need to contact an Information Officer or a Designated Officer, you can get contact details from the relevant Public Authority. You will find the contact details of the Information Officer and the Designated Officer prominently displayed in the premises of every Public Authority and on their websites.⁵¹

⁵¹ Section 26(1)

Chapter 6

Grounds on which Information can be Denied

- 6.1 Can information be denied under this Act?
- 6.2 What are the grounds on which information could be denied?
- 6.3 Can a RTI request for information that is denied be allowed after a time period?
- 6.4 Could you access other parts of records which contain inaccessible information?

*Like most fundamental rights, your right to information is not absolute. However, it could only be denied by a Public Authority in a limited set of circumstances. The Act lists these types and categories of information which could be denied to you and the circumstances in which such information could be denied. However, the most important aspect is that even if revealing the information would cause harm to a legitimate aim, **if the public benefits from disclosure**, such information will have to be disclosed.*

6.1 Can information be denied under this Act?

YES. A request for information under this Act can sometimes be denied.⁵² However, the burden will be on the public authority to prove the information cannot be disclosed in the public interest.⁵³

6.2 What are the grounds on which information could be denied?

The Act lists the grounds on which information can be denied.⁵⁴

- (a) Personal information which unnecessarily invades the privacy of a private person;

(But, if you could prove that the requested information serves a public interest or the private person to whom the information relates gives his permission in writing, such information could be accessed).
- (b) Information which, if disclosed, would pose a threat to the defence of the country, its territorial integrity, or national security; or would be harmful to Sri Lanka's relations with any other country; or if the information requested was collected on a confidential basis and for the purpose of an international agreement or commitment which Sri Lanka has undertaken;

⁵² Section 5(1)

⁵³ Section 28 read together with Section 32(4)

⁵⁴ Section 5(1)(a)-(n)



- (c) Information which, if disclosed prematurely, would be extremely harmful to the economy of the country, such as foreign currency exchange, credit activities, tax matters, control of prices for goods and services, and trade agreements Sri Lanka is in the process of entering into.

Example:- 'Z' requests from the Central Bank information on foreign currency exchange rates for the next few days. Prematurely disclosing this information would be detrimental to the exchange generated revenue of the country. Therefore, this information could be denied to 'Z'.

- (d) The information is related to commercial confidence, trade secrets or intellectual property, under the Intellectual Property Act No. 36 of 2003, and disclosing such information would harm the competitive position of a third party.

(However, the Public Authority could disclose the information if the Public Authority is satisfied that the public interest will be served by revealing such information);

⁵⁵ The determination of what amounts to public interest will be made by the RTI Commission. An appeal lies to the Court against the decision.

- (e) The information relates to the medical condition of any person, unless the person to whom the information relates has given his/her permission in writing to disclose the information;
- (f) Information exchanged between a professional and a Public Authority to which the professional provides services. This information can be denied when the law prohibits such disclosure. This includes correspondence between the Attorney General or any officer assisting the Attorney General in his/her work and a Public Authority;
- (g) Information given in the course of a fiduciary relationship ⁵⁶ ;

An example of a fiduciary relationship is:-

- (i). 'M', a client, discloses his financial situation to his lawyer appointed by the Legal Aid Commission. This information cannot be revealed as the relationship between the lawyer and 'M' is a fiduciary relationship.
- (ii). 'K' suffers from an illness and is treated by Doctor 'H' who has information on K's health. The information on K's health will be denied as the relationship between H and K is a fiduciary relationship.

- (h) Disclosing information would harm the investigation or apprehension or prosecution of offenders, or expose an informant who assists the police or military anonymously;
- (i) The information has been supplied to the relevant Public Authority by a third party in confidence and the third party does not consent to the information being disclosed except when the public interest outweighs the relevant private interest;
- (j) Disclosing information would be in contempt of court or it would harm the impartiality of the judiciary;

⁵⁶ A legal, ethical or moral trust one person places in another person (the fiduciary) due to the superior knowledge or training of the fiduciary.

- (k) Disclosing information would infringe on the privileges of Parliament or a provincial council;
- (l) Disclosing information would harm public confidence in an examination being conducted by the Department of Examinations or a Higher Educational Institution;



- (m) The information relates to a cabinet paper which has not yet been decided on by cabinet; or
- (n) The information relates to an election conducted by the Commissioner of Elections which is legally required to be kept confidential.

6.3 Can a RTI request for information that is denied be allowed after a time period?

YES. A Public Authority cannot deny allowing access to any information if the information is over ten (10) years old other than the information referred to in (a), (b), (d), (e), (f), (g), (h) and (j).⁵⁷

Most importantly, any information which would ordinarily be denied has to be disclosed if you could prove an overriding public benefit and that such public benefit is greater than any harmful effect which could result from disclosing the information.⁵⁸

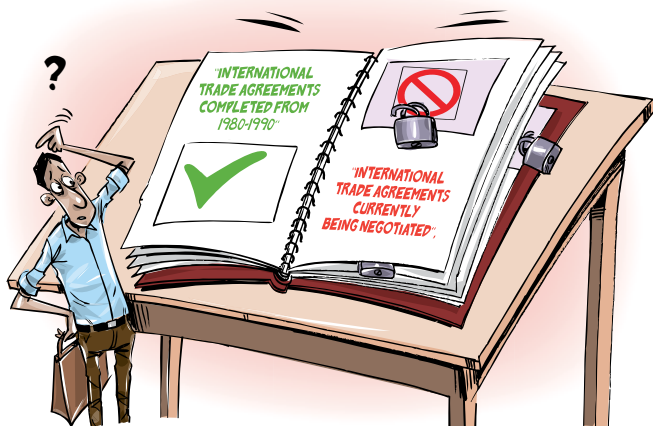
⁵⁷ Section 5(2)

⁵⁸ Section 5(4)

However, even if 10 years have passed, a Public Authority cannot disclose information of an overseas trade agreement if the negotiations for the agreement have not been concluded.⁵⁹

6.4 Could you access other parts of records which contain inaccessible information?

If the record or document contains other information apart from information that could legitimately be denied, you can request to access the remaining information. Authorities cannot deny you access to the accessible portion of the information.⁶⁰



⁵⁹ Section 5(3)

⁶⁰ Section 6

Chapter 7

Appeals

- 7.1 Can you appeal against the decisions of Information Officers?
- 7.2 What is the procedure for appeals against the decisions of Information Officers?
- 7.3 Can you appeal against the decision of the Designated Officer?
- 7.4 How soon should appeals be made?
- 7.5 What is the procedure for Appeals to the Commission?
- 7.6 Should the Commission give reasons for its decisions?
- 7.7 Is there a procedure for you to appeal against the decisions of the Commission made in terms of Section 32?
- 7.8 Who should prove the facts (burden of proof)?
- 7.9 Can you get another person to make an appeal on your behalf?

Appeals against decisions of Public Authorities ensure that Public Authorities do not act arbitrarily and make reasonable efforts to facilitate disclosure of information. If access to information is denied, you have a right to appeal against the denial. The Act comprehensively sets out the procedure to be followed in submitting an appeal against decisions of Information Officers, Designated Officers, and the Commission itself. This affords you the opportunity to effectively exercise your Right to Information.

7.1 Can you appeal against the decisions of Information Officers?

YES. You can.⁶¹

- (a) If the Information Officer refuses a request for information;
- (b) If the Information Officer refuses to disclose information citing an exception to the requirement to disclose information under the Act;
- (c) If Information Officers do not follow time frames;
- (d) If Information Officers provide incomplete, misleading or false information;
- (e) If Information Officers charge excessive fees;
- (f) If Information Officers refuse to provide information in the form information is requested;
- (g) Where you reasonably believe that the requested information has been deformed, destroyed or misplaced;

you can submit an appeal to the Designated Officer within fourteen days (14) of your request for information being refused, or the act being committed or becoming aware of the grounds on which the appeal is being made. Even if you exceed 14 days, the Designated Officer can accept your appeal if you could prove that the reasons for the delay were beyond your control.⁶²

⁶¹ Section 31

⁶² Rules may be laid down by the Commission regarding appeals made out of time due to reasons such as unintentional delay or lack of awareness.

7.2 What is the procedure for appeals against the decisions of Information Officers?

Once an appeal is made the Designated Officer will issue a receipt to you within three (03) working days informing you of accepting the appeal. The Designated Officer must make a decision on the appeal with specific reasons and grounds for the decision within three (03) weeks. The Designated Officer has the right to accept an appeal and make a decision on it, even when you are delayed in making your application, if you provide acceptable reasons for the delay. ⁶³

7.3 Can you appeal against the decision of the Designated Officer?

YES. You can appeal against the decision of a Designated Officer to the Commission in two instances;

- (a) If you are not satisfied with the decision of the Designated Officer made in the case of an appeal against an Information Officer;
- or
- (b) If the Designated Officer fails to provide a decision on an appeal against an Information Officer within three (03) weeks. ⁶⁴

7.4 How soon should appeals be made?

- The appeal must be made within two (02) months of the decision being communicated in (a) or the failure to make a decision in (b). ⁶⁵
- The Commission is required to give its decision within thirty (30) days. ⁶⁶
- The Commission can accept an appeal out of time if you were delayed due to a reason beyond your control. ⁶⁷

7.5 What is the procedure for Appeals to the Commission?

The Commission will formulate and publicize the procedure to submit appeals to it within six (06) months of establishing the Commission.

⁶³ Section 31 (2), (3), and (5)

⁶⁴ Section 32(1)

⁶⁵ Section 32(1)

⁶⁶ Section 32(1)

⁶⁷ Section 32(2)

7.6 Should the Commission give reasons for its decisions?

The Commission is mandatorily required to provide reasons for its decisions in writing. These reasons will be communicated to the appellant, the Information Officer and the relevant Public Authority.⁶⁸

7.7 Is there a procedure for you to appeal against the decisions of the Commission made in terms of Section 32?

YES. If you or the Public Authority are dissatisfied with the decision of the Commission, you/he/she/it could appeal against the said decision to the Court of Appeal within fourteen (14) days of the Commission informing the parties of its decision.⁶⁹

7.8 Who should prove the facts (burden of proof)?

On appeal, the burden of proof is on the Public Authority to show that it has complied with the stipulations in the Act.⁷⁰

7.9 Can you get another person to make an appeal on your behalf?

YES. If you are unable to make an appeal for any reason, another person to whom you have given written authority, can appeal on your behalf.⁷¹

⁶⁸ Section 32(3)

⁶⁹ Section 34

⁷⁰ Section 32(4)

⁷¹ Section 33

Appeals Process

APPEALS PROCESS

STEP 1

The Information Officer;

- Rejects a request for information;
- Rejects access to information citing an exemption;
- Does not follow time frames;
- Provides incomplete, misleading or false information;
- Charges excessive fees;
- Refuses to provide information in the requested form

OR

You have a reasonable belief that the requested information has been deformed, destroyed or misplaced;

OR

You are not satisfied with the reasons for the extension

STEP 2

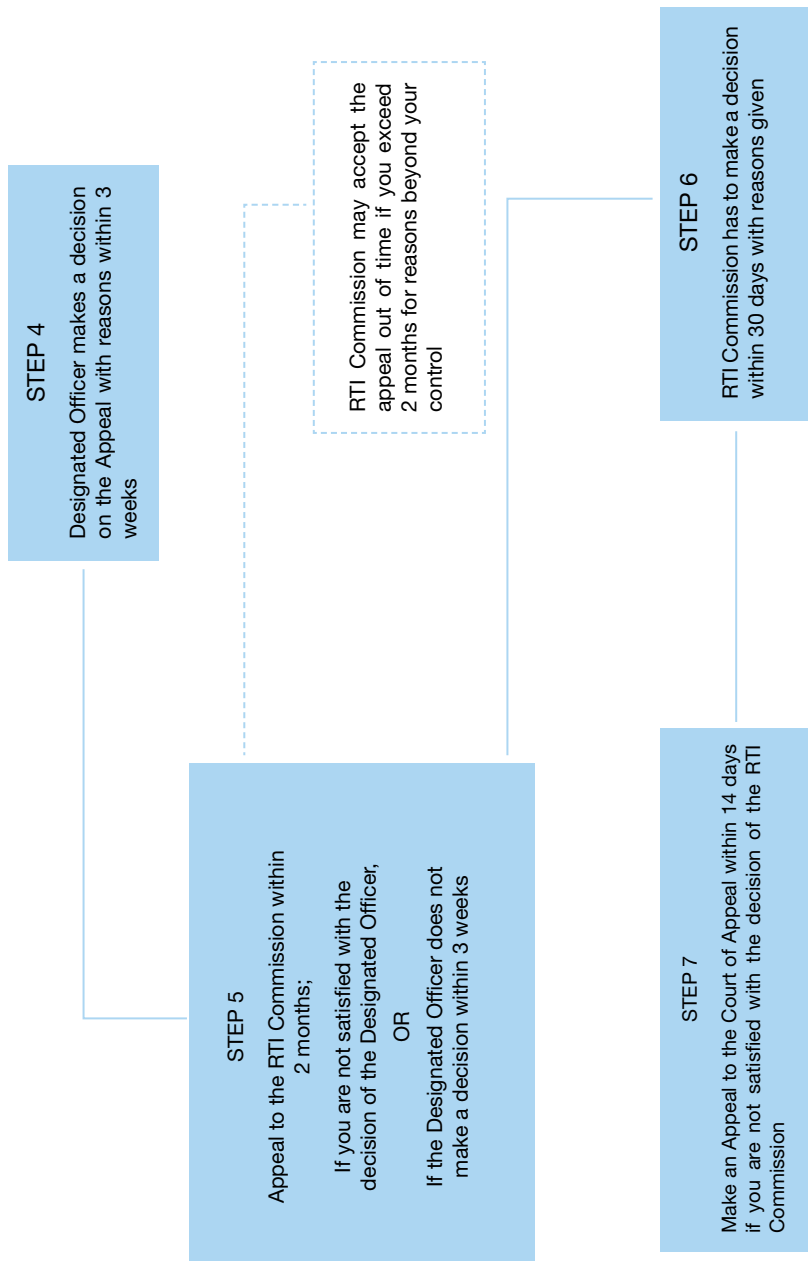
Appeal to the Designated Officer within 14 days of;

- Request for information being refused, or
- The act being committed, or
- Becoming aware of the grounds on which the appeal is being made.

Designated Officer may accept the appeal out of time if you exceed 14 days for reasons beyond your control

STEP 3

Designated Officer issues a receipt of Appeal within 3 working days



Chapter 8

Penalties

- 8.1 Are there any penalties for violating this Act?**
- 8.2 Can disciplinary action be taken against Information Officers and/or officers designated to receive appeals for violating this Act?**
- 8.3 Can an officer or employee of a Public Authority be punished for disclosing information?**

The Right to Information is recognized as an extremely important right. Therefore, violating provisions of the Act carries stern penalties. The RTI Commission does not have any power to impose sanctions by itself. Any penalties resulting from violations are imposed by the courts. The Commission can however take the matter before the court. It could also refer the violators for disciplinary action.

8.1 Are there any penalties for violating the Act?

YES. If any person commits one of the following acts, the Commission can take that person before a court of law;⁷²

- a) Knowingly prevents access to information or intentionally provides incorrect, incomplete or inaccurate information;
- (b) Destroys, invalidates, alters or totally or partially conceals information in his/her possession;
- (c) Fails or refuses to appear before the Commission when requested;
- (d) Appears before the Commission, but
 - (i) fails or refuses to be questioned by the Commission or
 - (ii) fails or refuses to produce any information which he/she has or
 - (iii) deliberately provides false information under oath or affirmation;
- (e) Fails or refuses to carry out a decision of the Commission;
- (f) Resists or obstructs the Commission or its employees from exercising their powers;
- (g) Discloses information in violation of the Act;

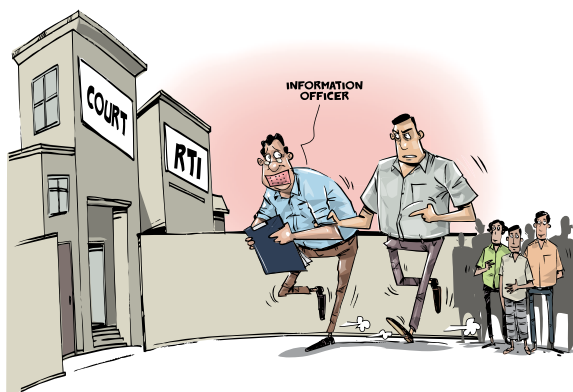
If a person commits any of the above, he/she is guilty of an offence. He/she will be prosecuted and if found guilty will be liable to a fine of **fifty thousand rupees (Rs.50,000/=) or less or to imprisonment for a period of less than two years or to both a fine and imprisonment.**

Additionally, if any other officer employed in a Public Authority refuses or fails without reasonable grounds, to extend his/her support and services to the Information Officer of that authority, he/she will also be guilty of an offence.

⁷² Section 39(1)

He/she will be tried by a court of law and if found guilty will be liable to a fine of ten thousand rupees (Rs.10,000/=) or less. ⁷³

In addition to the above penalties, the guilty parties will also be subject to disciplinary control by the relevant disciplinary authorities within their institutions.



8.2 Can disciplinary action be taken against Information Officers and/or officers designated to receive appeals for violating this Act?

YES. If any Information Officer;

- (i) refuses to receive a request for information;
- (ii) refuses a request for information, without giving reasons ;
- (iii) demands excessive fees; or
- (iv) by any other means fails to process a request for information;

the Commission can bring the matter to the notice of the person or entity exercising disciplinary control over the Information Officer. ⁷⁴

Also, if any officer designated to receive appeals intentionally,

- (i) Refuses to entertain an appeal on any ground other than a ground under Section 5; or
- (ii) Without reason fails to make a decision on the appeal, within the stipulated time

⁷³ Section 39(2)

⁷⁴ Section 38(1)

the Commission can bring the matter to the notice of the person or entity exercising disciplinary control over the Designated Officer. ⁷⁵

The person or entity exercising disciplinary control over the above officers is required to inform the Commission of the steps he/she/it has taken to address the matter within one (01) month. ⁷⁶

8.3 Can an officer or employee of a Public Authority be punished for disclosing information?

If the officer discloses information that is allowed to be disclosed under this Act, the officer cannot be subject to disciplinary or any other form of punishment. ⁷⁷

⁷⁵ Section 38(1)

⁷⁶ Section 38(2)

⁷⁷ Section 40

Chapter 9

The Right to Information Commission

- 9.1 What is the Right to Information Commission?
- 9.2 Is the Commission independent?
- 9.3 How does the Commission establish its transparency?
- 9.4 What are the duties and functions of the Commission?
- 9.5 What powers does the Commission have?
- 9.6 How will the Commission be financed?
- 9.7 Will the finances of the Commission be audited?

The Right to Information Commission oversees the effective implementation of the Act. It is an independent and transparent body, which is required to ensure that Public Authorities duly discharge their duties under this Act. The Commission has the power, among other things, to direct Public Authorities to conform to the requirements of the Act, to inquire into violations of the Act, to sue and be sued under its name, and to hear appeals directed to the Commission.

9.1 What is the Right to Information Commission?

The Right to Information Commission is established by the Act to ensure effective implementation of the Act. The Commission is a corporate entity which has legal personality. Therefore, it can sue and be sued.⁷⁸

9.2 Is the Commission independent?

YES. It is an independent Commission. Three of its members are named by nominations from the editors, publishers and media groups, from the Bar Association and from civil society groups sent to the Constitutional Council (CC). Two remaining members are selected by the CC from a public application process.⁷⁹

9.3 How does the Commission establish its transparency?

The Commission will prepare and publish a report of all its activities at least once a year to ensure transparency. One copy of the report will be forwarded to the Parliament to be tabled for debate and another copy sent to the President. Two (02) weeks after the report is tabled in Parliament the Commission must keep a copy of the report at its office for the public to access it. Whenever possible, the Commission must publish a copy of the report on its website.⁸⁰

⁷⁸ Section 11

⁷⁹ Section 12

⁸⁰ Section 37

9.4 What are the duties and functions of the Commission?

The Commission will;

- (a) monitor the performance and ensure Public Authorities duly discharge their duties;
- (b) make recommendations for reform;
- (c) issue guidelines based on reasonableness, to guide Public Authorities in setting fees under the Act;
- (d) prescribe the circumstances in which an Information Officer can provide information without charging a fee;
- (e) prescribe the fee Schedule;
- (f) undertake training activities for public officials on the effective implementation of the Act;
- (g) publicize the requirements and the rights of individuals under the Act; and
- (h) issue guidelines for Public Authorities for the proper management of records.⁸¹

9.5 What powers does the Commission have?

The Commission has the powers;

- ((a) to hold inquiries and require any person to appear before the Commission;
- (b) to question persons called before the Commission and request them to produce information they possess. If the information required is exempted from disclosure under the Act, then the Commission should examine such information in confidence;
- (c) to inspect any information held by a Public Authority;
- (d) to direct a Public Authority to provide information in a particular form;
- (e) to direct a Public Authority to publish any information withheld by it;
- (f) to hear and decide appeals; and
- (g) to direct a Public Authority to reimburse fees charged from a citizen if the information was not provided in time.⁸²

The Commission has also the important power to directly prosecute offenders before the Magistrate's Court.⁸³

⁸¹ Section 14

⁸² Section 15

⁸³ Section 39(4)

9.6 How is the Commission financed?

The Commission has its own fund. The fund consists of any money the Commission is allocated by Parliament and donations, gifts or grants received by the Commission. When the Commission receives funds as gifts, donations or grants, the Commission is obligated to publicize the source of such funds and the purpose for which funds were given to the Commission. All expenses of the Commission will be paid out of this fund.⁸⁴

9.7 Will the finances of the Commission be audited?

YES. The income and expenditure of the Commission are subject to financial audits. The financial year of the Commission will be from January to December in any year. The Commission has to ensure proper accounts are maintained reflecting all income and expenditure of the Commission.

The audit of the accounts of the Commission will be carried out in terms of the provisions of Article 154 of the Constitution which relates to the audit of the accounts of public corporations.⁸⁵ Financial control and accounts of the Commission are subject to the provisions of the Finance Act, No. 38 of 1971 with relevant changes.⁸⁶

⁸⁴ Section 16

⁸⁵ Section 17

⁸⁶ Section 18

ANNEXURE

**The Right to Information Act
No.12 of 2016**



PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

RIGHT TO INFORMATION
ACT, No. 12 OF 2016

[Certified on 04th August, 2016]

Printed on the Order of Government

Published as a Supplement to Part II of the
Gazette of the Democratic Socialist Republic of Sri Lanka
of August 05, 2016.

Right to Information Act, No. 12 of 2016
[Certified on 04th August, 2016]

L.D.—O. 4/2015

AN ACT TO PROVIDE FOR THE RIGHT OF ACCESS TO INFORMATION; TO SPECIFY GROUNDS ON WHICH ACCESS MAY BE DENIED; TO ESTABLISH THE RIGHT TO INFORMATION COMMISSION; TO APPOINT INFORMATION OFFICERS; TO SET OUT THE PROCEDURE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS the Constitution guarantees the right of access to information in Article 14A thereof and there exists a need to foster a culture of transparency and accountability in public authorities by giving effect to the right of access to information and thereby promote a society in which the people of Sri Lanka would be able to more fully participate in public life through combating corruption and promoting accountability and good governance.

Preamble.

BE it therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-a) Knowingly prevents access to information or intentionally provides incorrect, incomplete or inaccurate information;

1. (1) This Act may be cited as the Right to Information Act, No. 12 of 2016.
- (2) The provisions of this section, Part IV, sections 23, 36, 40, 41, 42, 43 and 44 shall come into operation on the date on which the certificate is endorsed in respect of this Act in terms of Article 79 of the Constitution.
- (3) The provisions of all other sections of this Act, shall come into operation in respect of such public authorities or categories of public authorities and on such dates as may be prescribed by the Minister by Order published in the Gazette:

Short title and date of operation.

Provided however, that the dates so prescribed shall be at least six months after the certification referred to in subsection (2) above, and that all provisions of this Act shall be applicable to all public authorities no later than one year of such certification.

2—PL 009845—3,161 (03/2016)

2. It shall be the responsibility of the Ministry of the Minister assigned the subject of mass media to ensure the effective implementation of the provisions of this Act.

Responsibility to ensure effective implementation.

PART I

APPLICATION OF THE PROVISIONS OF THE ACT

Right of access to information.

3. (1) Subject to the provisions of section 5 of this Act, every citizen shall have a right of access to information which is in the possession, custody or control of a public authority.
- (2) The provisions of this Act, shall not be in derogation of the powers, privileges and practices of Parliament.

Provisions of this Act to prevail over other written law.

4. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law and accordingly in the event of any inconsistency or conflict between the provisions of this Act and such other written law, the provisions of this Act shall prevail.

PART II

DENIAL OF ACCESS TO INFORMATION

When right of access may be denied.

5. (1) Subject to the provisions of subsection (2) a request under this Act for access to information shall be refused, where—
 - (a) the information relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the larger public interest justifies the disclosure of such information or the person concerned has consented in writing to such disclosure;
 - (b) disclosure of such information—
 - (i) would undermine the defence of the State or its territorial integrity or national security;
 - (ii) would be or is likely to be seriously prejudicial to Sri Lanka's relations with any State, or in relation to international agreements or obligations under international law, where such information was given by or obtained in confidence;
 - (c) the disclosure of such information would cause serious prejudice to the economy of Sri Lanka by disclosing

Right to Information Act, No. 12 of 2016

prematurely decisions to change or continue government economic or financial policies relating to-

- (i) exchange rates or the control of overseas exchange transactions;
 - (ii) the regulation of banking or credit;
 - (iii) taxation;
 - (iv) the stability, control and adjustment of prices of goods and services, rents and other costs and rates of wages, salaries and other income; or
 - (v) the entering into of overseas trade agreements;
- (d) information, including commercial confidence, trade secrets or intellectual property, protected under the Intellectual Property Act, No. 36 of 2003, the disclosure of which would harm the competitive position of a third party, unless the public authority is satisfied that larger public interest warrants the disclosure of such information;
- (e) the information could lead to the disclosure of any medical records relating to any person, unless such person has consented in writing to such disclosure;
- (f) the information consist of any communication, between a professional and a public authority to whom such professional provides services, which is not permitted to be disclosed under any written law, including any communication between the Attorney General or any officer assisting the Attorney General in the performance of his duties and a public authority;
- (g) the information is required to be kept confidential by reason of the existence of a fiduciary relationship;
- (h) the disclosure of such information would-
- (i) cause grave prejudice to the prevention or detection of any crime or the apprehension or prosecution of offenders; or
 - (ii) expose the identity of a confidential source of information in relation to law enforcement or national security, to be ascertained;

- (i) subject to the provisions of section 29(2)(c), the information has been supplied in confidence to the public authority concerned by a third party and the third party does not consent to its disclosure;
 - (j) the disclosure of such information would be in contempt of court or prejudicial to the maintenance of the authority and impartiality of the judiciary;
 - (k) the disclosure of such information would infringe the privileges of Parliament or of a Provincial Council as provided by Law;
 - (l) disclosure of the information would harm the integrity of an examination being conducted by the Department of Examination or a Higher Educational Institution;
 - (m) the information is of a cabinet memorandum in relation to which a decision has not been taken; or
 - (n) the information relates to an election conducted by the Commissioner of Elections which is required by the relevant election laws to be kept confidential.
- (2) Notwithstanding the provisions of subsection (1), a request for information shall not be refused on any of the grounds referred to therein, other than the grounds referred to in paragraphs (a), (b), (d), (e), (f), (g), (h) and (j) of that subsection, if the information requested for is over ten years old.
- (3) Any information relating to any overseas trade agreement referred to in subsection (1) (c) (v) of this section, where the negotiations have not concluded even after a lapse of ten years shall not be disclosed.
- (4) Notwithstanding the provisions of subsection (1), a request for information shall not be refused where the public interest in disclosing the information outweighs the harm that would result from its disclosure.
- (5) An information officer may seek the advice of the Commission, with regard to an issue connected with the grant of access to any information which is exempted from being disclosed under

Right to Information Act, No. 12 of 2016

subsection (1), and the commission may as expeditiously as possible and in any event give its advice within fourteen days.

6. Where a request for information is refused on any of the grounds referred to in section 5, access shall nevertheless be given to that part of any record or document which contains any information that is not exempted from being disclosed under that section, and which can reasonably be severed from any part that contains information exempted from being disclosed.

PART III

DUTIES OF MINISTERS AND PUBLIC AUTHORITIES

7. (1) It shall be the duty of every public authority to maintain all its records duly catalogued and indexed in such form as is consistent with its operational requirements which would facilitate the right of access to information as provided for in this Act.

Public authorities to maintain and preserve its records.
- (2) In discharging its obligations under subsection (1), every public authority shall comply with any direction given by the Commission under section 14(h).
- (3) All records being maintained by every public authority, shall be preserved—
 - (a) in the case of those records already in existence on the date of coming into operation of this Act, for a period of not less than ten years from the date of coming into operation of this Act; and
 - (b) in the case of new records which are created after the date of coming into operation of this Act, for a period of not less than twelve years from the date on which such record is created.
- (4) No record or information which is the subject matter of a request made under this Act, shall be destroyed during the pendency of such request or any appeal or judicial proceeding relating to such request.
- (5) Notwithstanding the provisions of subsection (2), every public

authority shall endeavor to preserve all its records in electronic format within a reasonable time, subject to the availability of resources.

Ministers duty to publish a report.

8. (1) It shall be the duty of every Minister to whom any subject has been assigned to publish biannually before the thirtieth of June and thirty first of December respectively of each year, a report in such form as shall be determined by the Commission as would enable a citizen to exercise the right of access to information granted under section 3 of this Act.
- (2) The report referred to in subsection (1) shall contain-
 - (a) the particulars relating to the organisation, functions, activities and duties of the Ministry of such Minister and of all the public authorities falling within the functions so assigned;
 - (b) the following particulars pertaining to the Ministry and the public authorities referred to in paragraph (a):-
 - (i) the powers, duties and functions of officers and employees and the respective procedures followed by them in their decision making process;
 - (ii) the norms set for the discharge of their functions, performance of their duties and exercise of their powers;
 - (iii) rules, regulations, instructions, manuals and any other categories of records, which are used by its officers and employees in the discharge of their functions, performance of their duties and exercise of their powers;
 - (iv) the details of facilities available to citizens for obtaining information;
 - (v) the budget allocated, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
 - (vi) the name, designation and other particulars of the information officer or officers appointed.
- (3) Notwithstanding the provisions of subsection (1), it shall be the duty of every Minister, within six months of the date of

Right to Information Act, No. 12 of 2016

coming into operation of this Act, to publish in such form as may be determined by such Minister, a report containing the information referred to in paragraphs (a) and (b) of subsection (2).

- (4) The reports referred to in subsections (1), (2) and (3) shall be-
- (a) published in the official languages and be made available in electronic form; and
 - (b) made available for public inspection and copies of the same may be issued to a citizen, on the payment of such fee as shall be determined by the Commission.

For the avoidance of doubt it is hereby declared that any reference to the Minister shall also include a reference to a Minister of a Provincial Council established under Chapter XVIIA of the Constitution.

9. (1) (a) It shall be the duty of the Minister, to whom the subject pertaining to any project has been assigned, to communicate, three months prior to the commencement of such project, to the public generally, and to any particular persons who are likely to be affected by such project all information relating to the project that is available with the Minister, as on the date of such communication:

Duty of the Minister to inform public about the initiation of projects.

Provided however, in the event of an urgent project, information shall be provided one week prior to the commencement of such project and reasons for such urgency shall be communicated to the Commission.

- (b) The Commission shall issue guidelines specifying the manner in which the communication referred to in paragraph (a) shall be made.
- (2) (a) The Minister shall, on a written request made in that behalf by a citizen, make available updated information about a project referred to in subsection (1), throughout the period of its development and implementation.
- (b) The information shall be made available on the payment of such fee, as shall be prescribed by the Commission for that purpose.
- (3) For the purposes of this section, “project” means any project the value of which exceeds-

- (a) in the case of foreign funded projects, one hundred thousand United States dollars; and
- (b) in the case of locally funded projects, five hundred thousand rupees.

For the avoidance of doubt it is hereby declared that any reference to the Minister shall also include a reference to a Minister of a Provincial Council established under Chapter XVIIA of the Constitution.

Duty of public authorities to submit reports etc.

- 10.** Every public authority shall submit annual reports to the Commission before the thirty first day of December immediately succeeding the year to which the report relates which shall be made available to the public in its office and on its official website, furnishing information such as-
- (a) the total number of requests received during the year and information provided and rejected;
 - (b) the amount of fees collected during the year;
 - (c) the number of requests rejected under section 5;
 - (d) the number of times information was provided at the direction of the Commission;
 - (e) any suggestions for improving the effectiveness of the regime of transparency;
 - (f) the number of appeals from refusal to communicate information;
 - (g) practices relating to the maintenance, management and destruction of records; and
 - (h) its activities under section 8.

PART 1V

ESTABLISHMENT OF THE RIGHT TO INFORMATION COMMISSION

Establishment of the right to Information Commission.

- 11.** (1) There shall be established for the purposes of this Act, a body called the Right to Information Commission (in this Act referred to as the “Commission”).

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- (2) The Commission shall by the name assigned to it by subsection (1), be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- 12.** (1) The Commission shall consist of five persons appointed by the President upon the recommendation of the Constitutional Council. In making such recommendations, the Constitutional Council shall recommend one person nominated by each of the following organisations or categories of organisations:-
- Constitution of the Commission.
- (a) Bar Association of Sri Lanka which shall nominate an Attorney-at-Law of eminence or a Legal Academic in consultation with Attorneys -at-Law and Legal Academia;
 - (b) organizations of publishers, editors and media persons;
 - (c) other civil society organizations.
- (2) (a) In making recommendations under subsection (1), the Constitutional Council shall ensure that the persons who are being recommended are persons who-
- (i) have distinguished themselves in public life with proven knowledge, experience and eminence in the fields of law, governance, public administration, social services, journalism, science and technology or management;
 - (ii) are not Members of Parliament, any Provincial Council or a local authority;
 - (iii) do not hold any public or judicial office or any other office of profit;
 - (iv) are not connected with any political party; or
 - (v) are not carrying on any business or pursuing any profession.
- (b) In nominating persons for the consideration of the Constitutional Council the organizations referred to in subsection (1) shall ensure that the persons nominated meet the criteria specified herein. In the event the Constitutional Council is of the opinion that the nominees do not meet the criteria set out herein fresh nominations shall be called for.

- (3) The Constitutional Council shall make its recommendations under subsection (1), within one month of the date of coming into operation of this Act or the date of a vacancy arising in the Commission. In the event, any or all of the organisations concerned fail to make nominations within such period, the Constitutional Council shall make its own recommendations after the expiry of the said period. In the event any nominations are rejected the Constitutional Council shall make its own nominations if no acceptable nominations are resubmitted within two weeks from the rejection.
- (4) Where a member of the Commission while holding such office becomes a Member of Parliament, any Provincial Council or a local authority or appointed to any public or judicial office or an office bearer of any political party such member shall cease to be a member of the Commission on such appointment.
- (5) The President shall nominate one of the members appointed to the Commission to be its Chairperson.
- (6) The members of the Commission shall hold office for a period of five years.
- (7) A member of the Commission shall not disclose any information that cannot be disclosed under the provisions of this Act.
- (8) The provisions of the Schedule to this Act shall apply to and in respect of the members of the Commission and the conduct of its meetings.

Appointment
of officers and
employees of the
Commission.

- 13. (1)** The Commission shall appoint-
- (a) a Director-General who shall be the Chief Executive Officer of the Commission;
 - (b) such officers and other employees as it considers necessary.
- (2) The Director-General shall be responsible for the general supervision, direction and management of the affairs of the Commission and exercise disciplinary control over the officers and employees of the Commission.
- (3) The Director-General and other officers and employees appointed under subsection (1), shall be subject to such terms and conditions of service as shall be determined by the Commission and be paid such remuneration as determined

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by the Commission in consultation with the Minister assigned the subject of Finance.

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| <p>14. The duties and functions of the Commission shall be, to –</p> <ul style="list-style-type: none">(a) monitor the performance and ensure the due compliance by public authorities, of the duties cast on them under this Act;(b) make recommendations for reform both of a general nature and those in regard to any specific public authority;(c) issue guidelines based on reasonableness, for determining fees to be levied by public authorities for the release of any information under this Act;(d) prescribe the circumstances in which information may be provided by an information officer, without the payment of a fee;(e) prescribe the fee Schedule based on the principle of proactive disclosure, in regard to providing information;(f) co-operate with or undertake training activities for public officials on the effective implementation of the provisions of this Act;(g) publicise the requirements of this Act and the rights of individuals under the Act;(h) issue guidelines for the proper record management for public authorities. | <p>Duties and functions of the Commission.</p> |
| <p>15. For the purpose of performing its duties and discharging of its functions under this Act, the Commission shall have the power-</p> <ul style="list-style-type: none">(a) to hold inquiries and require any person to appear before it;(b) to examine such person under oath or affirmation and require such person where necessary to produce any information which is in that person's possession, provided that the information which is exempted from disclosure under section 5 shall be examined in confidence; | <p>Powers of the Commission.</p> |

- (c) to inspect any information held by a public authority, including any information denied by a public authority under the provisions of this Act;
- (d) to direct a public authority to provide information, in a particular form;
- (e) to direct a public authority to publish any information withheld by a public authority from the public, subject to the provisions of section 5;
- (f) to hear and determine any appeals made to it by any aggrieved person under section 32; and
- (g) to direct a public authority or any relevant information officer of the authority to reimburse fees charged from a citizen due to any information requested for not been provided in time.

Fund of the Commission.

- 16.** (1) The Commission shall have its own Fund into which shall be credited-
- (a) all such sums of money as may be voted upon from time to time by Parliament for the use of the Commission; and
 - (b) donations, gifts or grants from any source whatsoever, whether in or outside Sri Lanka.
- (2) Where any money is received by way of donations, gifts or grants under subsection (1)(b), the sources and purpose for which such donation, grant or gift was made available shall be made public.
- (3) There shall be paid out of the Fund all such sums of money required to defray the expenditure incurred by the Commission in the exercise, discharge and performance of its powers, duties and functions.

Financial year and audit of accounts.

- 17.** (1) The financial year of the Commission shall be the calendar year.
- (2) The Commission shall cause proper books of accounts to be maintained of the income and expenditure and all other transactions of the Commission.
- (3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Commission.

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| <p>18. The provisions of Part II of the Finance Act, No. 38 of 1971 shall, mutatis mutandis apply to the financial control and accounts of the Commission.</p> | <p>Part II of the Finance Act, No. 38 of 1971 to apply.</p> |
| <p>19. The members and officers and all other employees of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code (Chapter 19) and every inquiry held by the Commission under this Act shall be deemed to be a judicial proceeding within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979.</p> | <p>Members etc., of the Commission deemed to be public servants.</p> |
| <p>20. The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act (Chapter 26) and the provisions of that Act shall be construed accordingly.</p> | <p>Application of the Bribery Act.</p> |
| <p>21. Any expenses incurred by any member, officer or employee of the Commission in any suit or prosecution brought by or against such person before any court in respect of any act or omission which is done or purported to be done by such person in good faith for the purpose of carrying out the provisions of this Act shall, if the court holds that such act or omission was done in good faith, be paid out of the fund of the Commission unless such expenses are recovered by him in such suit or prosecution.</p> | <p>Expenses incurred in any suit or prosecution.</p> |
| <p>22. The Commission shall within six months of its establishment, formulate and give adequate publicity to the procedural requirements for the submission of appeals to the Commission under section 32.</p> | <p>Procedural requirements to be published.</p> |

PART V APPOINTMENT OF INFORMATION OFFICERS AND PROCEDURE FOR GAINING ACCESS TO INFORMATION

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| <p>23. (1) (a) Every public authority shall for the purpose of giving effect to the provisions of this Act, appoint, within three months of the date of coming into operation of this Act, one or more officers as information officers of such public authority and a designated officer to hear appeals.</p> | <p>Appointment of Information officers and designated officers.</p> |
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- (b) Until such time that an information officer is appointed under paragraph (a) the Head or Chief Executive Officer of the public authority shall be deemed to be the information officer of such public authority, for the purposes of this Act.
- (2) Every information officer shall deal with requests for information made to the public authority of which he or she has been appointed its information officer, and render all necessary assistance to any citizen making such request to obtain the information.
- (3) The Information Officer may seek the assistance of any other officer as he or she may consider necessary, for the proper discharge of the duty imposed on him under this Act, and where assistance is sought from any such officer, it shall be the duty of such officer to provide the required assistance.

Procedure for
obtaining information.

- 24.** (1) Any citizen who is desirous of obtaining any information under this Act shall make a request in writing to the appropriate information officer, specifying the particulars of the information requested for:

Provided that where any citizen making a request under this subsection is unable due to any reason to make such request in writing, such citizen shall be entitled to make the request orally and it shall be the duty of the appropriate information officer to reduce such request to writing on behalf of the citizen.

- (2) Where a citizen –
 - (a) wishes to make a request to a public authority; or
 - (b) has made a request to a public authority which does not comply with the requirements of this Act,the information officer concerned shall take all necessary steps to assist the citizen, free of charge, to make the request in a manner that complies with this Act.
- (3) On receipt of a request, an information officer shall immediately provide a written acknowledgement of the request to the citizen.
- (4) Where an information officer is able to provide an immediate response to a citizen making a request and such response is to the satisfaction of the requester, the information officer

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shall make and retain a record of the request and the response thereto.

- (5) A citizen making a request for information shall:–
- (a) provide such details concerning the information requested as is reasonably necessary to enable the information officer to identify the information;
 - (b) identify the nature of the form and language in which the citizen prefers access;
 - (c) where the citizen making the request believes that the information is necessary to safeguard the life or liberty of a person, include a statement to that effect, including the basis for that belief; and
 - (d) not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him or her.

- (6) For the purpose of this section –

“writing” includes writing done through electronic means; and

“appropriate information officer” means the Information Officer appointed to the public authority from which the information is being requested for.

- 25.** 1) An information officer shall, as expeditiously as possible and in any case within fourteen working days of the receipt of a request under section 24, make a decision either to provide the information requested for on the payment of a fee determined in accordance with the fee schedule referred to in section 14(e) or to reject the request on any one or more of the grounds referred to in section 5 of this Act, and shall forthwith communicate such decision to the citizen who made the request.
- (2) Where a decision is made to provide the information requested for, access to such information shall be granted within fourteen days of arriving at such decision.
- (3) Where the request for information concerns the life and personal liberty of the citizen, the response to it shall be made within forty-eight hours of the receipt of the request.
- (4) Notwithstanding the requirement made for the payment of a

Decision on requests submitted under section 24.

fee under subsection (1), the Commission may specify the circumstances in which information may be provided by an information officer, without the payment of a fee.

- (5) The period of fourteen days referred to in subsection (2) for providing access to information may be extended for a further period of not more than twenty one days where-
 - (a) the request is for a large number of records and providing the information within fourteen days would unreasonably interfere with the activities of the public authority concerned; or
 - (b) the request requires a search for records in, or collection of records from, an office of the public authority not situated in the same city, town or location as the office of the information officer that cannot reasonably be completed within the fourteen days.
- (6) Where a period for providing information is to be extended for any of the circumstances referred to in subsection (5), the information officer shall, as soon as reasonably possible, but in any case within fourteen days, notify the citizen concerned of such fact giving the following reasons:-
 - (a) the period of the extension; and
 - (b) reasons for the extension.
- (7) A citizen who is dissatisfied with the reasons given under subsection (6) may lodge an appeal with the designated officer.

Public authority to display details of information officers and fees to be charged.

- 26.** (1) Every public authority shall display in a conspicuous place within the official premises and on a website of such public Authority if any, a notice specifying-
- (a) contact details of the Commission and the members of the Commission;
 - (b) contact details of the information officer;
 - (c) contact details of the designated officer;
 - (d) fees to be charged for obtaining any information from such public Authority.

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- (2) The fee referred to in subsection (1)(d), shall be determined in accordance with the fee scheduled formulated by the Commission under section 14(e).
- 27.** (1) Where decision has been made to grant a request for information, such information shall be provided in the form in which it is requested for, unless the information officer is of the view that providing the information in the form requested for would not be detrimental to the safety or preservation of the relevant document or record in respect of which the request was made.
- Manner in which information is to be provided.
- (2) Where an information officer is unable to provide the information in the manner requested for, it shall be the duty of such officer to consult the citizen and render all possible assistance to the citizen to determine an appropriate alternative means of providing access to the information and to facilitate compliance with such request.
- (3) Subject to the provisions of subsection (1), a citizen, whose request for information has been granted, is entitled to:-
- (a) inspect relevant work, documents, records;
 - (b) take notes, extracts or certified copies of documents or records;
 - (c) take certified samples of material;
 - (d) obtain information in the form of diskettes, floppies, tapes, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device.
- 28.** Where a request for information is refused by an information officer, such officer shall specify the following information in the communication to be sent under section 25(1), to the citizen who made the request-
- Refusal of a request to be communicated.
- (a) the grounds on which such request is refused; and
 - (b) the period within which and the person to whom an appeal against such refusal may be preferred under section 32 of this Act.

Where information requested for was supplied by a third party.

- 29.** (1) Where a request made to an information officer by any citizen to disclose information which relates to, or has been supplied by a third party and such information has been treated as confidential at the time the information was supplied, the information officer shall, within one week of the receipt of such request, invite such third party by notice issued in writing, to make representation for or against such disclosure, within seven days of the receipt of the notice.
- (2) An information officer shall be required in making his decision on any request made for the disclosure of information which relates to or has been supplied by a third party, to take into consideration the representations made by such third party under subsection (1), and shall, where the third party-
- (a) does not respond to the notice, disclose information requested for;
 - (b) responds to the notice and agrees to the disclosure of the information requested for, disclose such information;
 - (c) responds to the notice and refuses to the disclosure of the information requested for, deny access to the information requested for:

Provided however, the Commission may on the application made in that behalf by the citizen making the request, direct the disclosure of the information in question notwithstanding any objections raised by such third party against its disclosure, where the release of the information concerned demonstrably outweighs the private interest in non disclosure.

Exemption from suit or prosecution.

- 30.** No liability, whether civil or criminal, shall attach to any public authority or any information officer or any other officer of such public authority, for anything which in good faith is done by such officer in the performance or exercise of any function or power imposed or assigned to such officer under this Act.

PART VI

APPEALS AGAINST REJECTIONS

Appeals against a rejection of a request.

- 31.** (1) Any citizen who is aggrieved as a result of-

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- (a) refusing a request made for information;
- (b) refusing access to the information on the ground that such information is exempted from being granted under section 5;
- (c) non-compliance with time frames specified by this Act;
- (d) granting of incomplete, misleading or false information;
- (e) charging an excessive fees;
- (f) the refusal of the information officer to provide information in the form requested; or
- (g) the citizen requesting having reasonable grounds to believe that information has been deformed, destroyed or misplaced to prevent such citizen from having access to the information,

may, prefer an appeal to the designated officer within fourteen days of the refusal, act or date of becoming aware of the grounds on which the appeal is sought to be made, as the case may be:

Provided however, that the designated officer may admit the appeal after the expiry of the period of fourteen days if he or she is satisfied that the appellant was prevented by a reason beyond his or her control from filing the appeal in time.

- (2) The designated officer shall issue a receipt on the acceptance of the appeal, to the citizen making the appeal, and in any case within three working days.
- (3) The decision on any appeal preferred under subsection (1), shall be made by the designated officer within three weeks of the receipt of the appeal and shall include the reasons for the said decision including specific grounds for the same.
- (4) The right of a citizen to prefer an appeal under subsection (1) shall be without prejudice to his or her right to make an application to the Commission.
- (5) The designated officer may where reasonable cause is given for failure to submit an appeal within a period specified by subsection (1) by the citizen making such an appeal may at his discretion hear the appeal notwithstanding such delay.

Appeals to the Commission.

32. (1) Any citizen aggrieved by:-

- (a) the decision made in respect of an appeal under section 31(1), may within two months of the communication of such decision; or
- (b) the failure to obtain a decision on any appeal made within the time specified for giving the same under section 31(3), may within two months of the expiry of the period so specified,

may appeal against that decision or the failure, to the Commission and the Commission may within thirty days of the receipt of such appeal affirm, vary or reverse the decision appealed against and forward the request back to the information officer concerned for necessary action.

- (2) The Commission may admit the appeal after the expiry of the period of two months if the commission is satisfied that the appellant was prevented by a reason beyond his or her control from filing the appeal in time.
- (3) The Commission shall give reasons for its decisions in writing, to the appellant, the information officer and the public authority concerned.
- (4) On appeal, the burden of proof shall be on the public authority to show that it acted in compliance with this Act in processing a request.

Appeal may be made on behalf of an aggrieved party.

33. Where the aggrieved party is unable due to any reason to make an appeal under section 31 or section 32, as the case may be, such appeal may be made by a person duly authorized in writing by the aggrieved party to prefer the same.

Appeals to the Court of Appeal.

34. (1) A citizen or public authority who is aggrieved by the decision of the Commission made under section 32, may appeal against such decision to the Court of Appeal within one month of the date on which such decision was communicated to such citizen or public authority.

- (2) Until rules are made under Article 136 of the Constitution pertaining to appeals under this section, the rules made under that Article pertaining to an application by way of revision to the Court of Appeal, shall apply in respect of every appeal

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made under subsection (1) of this section.

PART VII GENERAL

- 35.** Every officer in any public authority giving a decision which affects any person in any way, shall be required on request made in that behalf by the person concerned, to disclose to that person in writing the reasons for arriving at such decision.
- Duty to disclose reasons for a decision.
- 36.** Nothing in this Act is intended to prevent or discourage information holders from publishing or giving access to information or prevent any person from seeking and obtaining information, which may be provided in due compliance with the law.
- Nothing in this Act to prevent or discourage information from being published.
- 37.** (1) The Commission shall cause to be prepared a report of its activities as often as it may consider necessary, so however, that it shall prepare at least one report in each calendar year. The Commission shall transmit a copy of every such report to be tabled before Parliament and a copy of same shall also be sent to the President.
- Commission to prepare a report of its activities.
- (2) A copy of the report prepared under subsection (1) shall, within two weeks of it being tabled before Parliament, be made available for public inspection at the office of the Commission and wherever possible, a copy of the same may be made available on its website.
- 38.** (1) Where—
- (a) any information officer willfully -
- (i) refuses to receive an application for information from any citizen;
- (ii) refuses a request made for information, without giving reasons for such refusal;
- (iii) stipulates excessive fees in breach of the fee Schedule referred to in section 14 (e);
- Commission to inform the appropriate disciplinary authority.

- (iv) otherwise fails to process a request in accordance with the provisions of this Act;
- or
- (b) any designated officer willfully –
 - (i) under section 31 refuses an appeal, made on any ground other than a ground specified in section 5 of this Act;
 - (ii) failed without any reasonable cause to make a decision on an appeal, within the time specified under section 31(3) for making such decision,

the Commission shall, bring the matter to the notice of the appropriate disciplinary authority.

- (2) The relevant disciplinary authority shall inform the Commission of the steps taken in respect of any matter brought to the notice of such disciplinary authority within a period of one month.

Offences.

39. (1) Every person who–

- (a) deliberately obstructs the provision of information or intentionally provides incorrect, incomplete or inaccurate information;
- (b) destroys, invalidates, alters or totally or partially conceal information under his or her custody, or to which he or she has access to or knowledge of due to the exercise of his or her employment in such public authority;
- (c) fails or refuses to appear before the Commission when requested to do so by the Commission;
- (d) appears before the Commission, and fails or refuses to be examined by the Commission or to produce any information which is in that persons possession or power or deliberately provides false information under oath or affirmation;
- (e) fails or refuses to comply with or give effect to a decision of the Commission;
- (f) resists or obstructs the Commission or any officer or other employee of the Commission, in the exercise of any power conferred on the Commission or such officer or

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employee, by this Act;

- (g) discloses any information in contravention of the provisions of section 12(7) of this Act,

commits an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

- (2) Any officer whose assistance was sought for by an information officer under section 23(3) and who fails without reasonable cause to provide such assistance, shall commit an offence under this Act, and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding ten thousand rupees.
- (3) A fine imposed for the commission of an offence referred to in subsection (1) or (2) of this section, shall be in addition to and not in derogation of any disciplinary action that may be taken against such officer by the relevant authority empowered to do so.
- (4) A prosecution under this Act shall be instituted by the Commission.

- 40. Notwithstanding any legal or other obligation to which a person may be subject to by virtue of being an officer or employee of any public authority, no officer or employee of a public authority shall be subjected to any punishment, disciplinary or otherwise, for releasing or disclosing any information which is permitted to be released or disclosed under this Act.

Release or disclosure of information by an employee of a public authority.

- 41. (1) The Minister may in consultation with the Commission make regulations in respect of all matters required by this Act to be prescribed or in respect of which regulations are necessary to be made in order to give effect to the principles and provisions of this Act.
- (2) Every regulation made under subsection (1) shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.
- (3) Every regulation made under subsection (1) shall, forthwith after its publication in the Gazette be brought before

Regulations.

Parliament for approval and any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

- (4) The date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

Rules.

- 42.** (1) The Commission may make rules concerning any of the following matters:-
 - (a) the form and manner in which appeals may be made to the Commission;
 - (b) the procedure for holding inquiries;
 - (c) fee schedule in respect of providing information;
 - (d) the format of the reports to be prepared under section 10.
- (2) No rule made under this section shall have effect until it is approved by the Minister and notification of such approval is published in the Gazette.

Interpretation.

- 43.** In this Act, unless the context otherwise requires–

“citizen” includes a body whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens;

“designated officer” means a designated officer appointed under section 23 of this Act;

“Higher Educational Institution” means a University, Campus or University College established or deemed to be established or made by the Universities Act, No. 16 of 1978 or acknowledged by the University Grants Commission or established under the provisions of any other Act;

“information” includes any material which is recorded in, in any form including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, correspondence, memorandum, draft legislation, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, video tape, machine

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readable record, computer records and other documentary material, regardless of its physical form or character and any copy thereof;

“information officer” means an information officer appointed under section 23 of this Act;

“local authority” means a Municipal Council, Urban Council or a Pradeshiya Sabha and includes any authority created or established by or under any law to exercise, perform and discharge powers, duties and functions corresponding or similar to the powers, duties and functions exercised, performed or discharged by any such Council or Sabha;

“non governmental organisation” means any organization formed by a group of persons on a voluntary basis and receiving funds directly or indirectly from the Government or international organisations and is of a non governmental nature;

“public authority” means –

- (a) a Ministry of the Government;
- (b) any body or office created or established by or under the Constitution, any written law, other than the Companies Act No. 7 of 2007, except to the extent specified in paragraph (e), or a statute of a Provincial Council;
- (c) a Government Department;
- (d) a public corporation;
- (e) a company incorporated under the Companies Act, No. 7 of 2007, in which the State, or a public corporation or the State and a public corporation together hold twenty five per centum or more of the shares or otherwise has a controlling interest;
- (f) a local authority;
- (g) a private entity or organisation which is carrying out a statutory or public function or service, under a contract, a partnership, an agreement or a license from the government or its agencies or from a local body, but only to the extent of activities covered by that statutory or public function or service;
- (h) any department or other authority or institution established or created by a Provincial Council;

- (i) non-governmental organisations that are substantially funded by the government or any department or other authority established or created by a Provincial Council or by a foreign government or international organisation, rendering a service to the public in so far as the information sought relates to the service that is rendered to the public;
- (j) higher educational institutions including private universities and professional institutions which are established, recognised or licensed under any written law or funded, wholly or partly, by the State or a public corporation or any statutory body established or created by a statute of a Provincial Council;
- (k) private educational institutions including institutions offering vocational or technical education which are established, recognised or licensed under any written law or funded, wholly or partly, by the State or a public corporation or any statutory body established or created by a statute of a Provincial Council;
- (l) all courts, tribunals and institutions created and established for the administration of justice;

Sinhala text to prevail
in case
of inconsistency.

- 44.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

SCHEDULE

[Section 12(8)]

PROVISIONS RELATING TO MEMBERS OF THE COMMISSION

- (1) A member of the Commission shall cease to be a member, where such member:-
 - (a) resigns his or her office earlier by writing addressed to the President;
 - (b) is removed from office by the President;
 - (c) is convicted by a court of law;
 - (d) is deemed to have vacated office by absenting himself or herself from three consecutive meetings of the

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Commission, without obtaining prior leave of the Commission; or

- (e) engages in any employment outside the duties of his office, during the term of office.
- (2) The President may on the recommendation of the Constitutional Council remove from office a member of the Commission, where:-
 - (a) such member has become permanently incapable of performing his or her duties owing to any physical disability or unsoundness of mind ;
 - (b) such member is unfit to perform his or her duties on the basis of moral turpitude; or
 - (c) such member is convicted of an offence by a competent court of law.
- (3) The Chairperson or any other member of the Commission may resign from such office by letter in that behalf addressed to the President and the resignation shall become effective from the date of its acceptance by the President in writing.
- (4) In the event of the vacation of the office of any member of the Commission, the President shall follow the same procedure as set out in section 12(1) and appoint another person to hold such office for the unexpired term of office of the member whom he succeeds.
- (5) (a) Where a member of the Commission, is temporarily unable to discharge his or her duty due to ill health, absence from Sri Lanka or for any other cause, the President may on the recommendation of the Constitutional Council, appoint another person to act in place of such member during his or her absence.
- (b) Where the Chairperson of the Commission, is temporarily unable to discharge his or her duty due to ill health, absence from Sri Lanka or for any other cause, the President shall appoint another member of the Commission, to act in place of such Chairperson during his or her absence.
- (6) The members of the Commission, shall be paid such remuneration as shall be determined by the Minister in charge of the subject of Finance.
- (7) (a) The Commission shall meet at least once in every

month or as often as may be necessary.

- (b) The quorum for any meeting of the Commission shall be three members.
 - (c) The Chairperson of the Commission shall preside at all meetings of the Commission, and in the absence of the Chairperson at any such meeting, the members present shall elect from amongst them, a member to preside at such meeting.
 - (d) The Chairperson or the person presiding at any meeting of the Commission, shall in addition to his vote, have a casting vote.
 - (e) The Commission shall regulate the procedure in regard to its meetings and the transaction of business at such meetings.
- (8) The seal of the Commission:—
- (a) shall be as determined from time to time by the Commission;
 - (b) shall be in the custody of such person as the Commission shall determine;
 - (c) may be altered in such manner as may be determined by the Commission; and
 - (d) shall not be affixed to any document or instrument, except with the sanction of the Commission, and in the presence of the Chairperson and one other member of such Commission both of whom shall sign such document or the instrument in token of their presence.

The RTI Act enacted in August 2016 empowers citizens to call for transparency and accountability of the State which exercises the sovereign powers of the People, and public authorities including private entities which have an impact on public life. This increases the proactive and meaningful participation of citizens in public life, which is an essential element of democracy.

This Manual provides the RTI Act in a simplified form for citizens to be able to fully comprehend the contents of the Act and utilize its provisions to make the Government more accountable to the People.



The Sri Lanka Press Institute (SLPI)
96, Kirula Road, Colombo – 05, Sri Lanka.
T : +94-11-5353635 Fax: +94-11-5335500
E : info@slpi.lk W: www.slpi.lk

