

The Right to Information Act 2005

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Right to Information

The RTI Act - Genesis

- Promised in the Common Minimum Programme of the new government.
- Initiative taken by civil society groups led by the NCPRI.
- Law drafted and sent to the National Advisory Council in August 2004.
- NAC broadly endorses and forwards to the Prime Minister in August itself.

The RTI Act - Genesis - Contd...

- Initial Resistance from the government.
- Intensive lobbying leading to watered down bill in Dec 2004.
- Renewed lobbying - especially with Parliamentary Committee and GOM.
- 150 amendments introduced in Parliament in May 2005 - and amended bill passed.

The RTI Act 2005 - Coverage

- Comes into effect 120 days after enactment.
- Covers central, state and local governments, and
 - all bodies owned, controlled or substantially financed;
 - non-government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government (2(h))
- Covers executive, judiciary and legislature (2(e))
- Includes information relating to private bodies which can be accessed under any other law for the time being in force (2(f))

The RTI Act 2005 – Some Definitions

- "information" includes any material in any form, opinions, advices, and samples.
- "right to information" includes inspection of work, records;
- "right to information" includes taking certified samples of material;

The RTI Act 2005 - Processes

- Application with fee, to Public Information Officer (PIO).
- PIO in each office/PA. Assistant PIO at sub-district levels
- Information within 30 days. 48 hours where life or liberty is involved.
- No action on application for 30 days is a deemed refusal.
- No fee for delayed response

The RTI Act 2005 – Processes...

Exempt information:

- a. Affecting sovereignty, integrity, security, other interests of India, relation with foreign state or leading to incitement of an offence;
- b. Forbidden by courts;
- c. Affecting privilege of Parliament or Legislature;
- d. Commercial confidence, trade secrets or intellectual property, where disclosure would harm competitive position, or available to a person in his fiduciary relationship, unless larger public interest so warrants;
- e. received in confidence from foreign government;

RTI Act 2005-Exemptions contd.

- f. endangers life or physical safety or identifies confidential source of information or assistance
- g. impedes the process of investigation or apprehension
- h. cabinet papers

Provided decisions, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

- i. personal information which would cause invasion of the privacy unless larger public interest justifies it.

RTI Act 2005-Exemptions contd.

- Infringes copyright, except of the state.
- Where practicable, part of record can be released.
- Intelligence and security agencies exempt - except for corruption and human rights violation charges
- Notice to third party
- Most exempt information released after 20 years.
- Information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.
- Notwithstanding anything a public authority may allow access to information, if public interests in disclosure outweighs the harm to the protected interests.

RTI Act 2005 - Appeals

- Appeals
 - First appeal with senior in the department
 - Second appeal with Information Commission
 - Onus of proof on refuser/public authority
- Envisages an independent Information Commission at the Central and State level, to be an appellate authority and to oversee the functioning of the act. Has various powers under the Act.
- To be appointed by a committee of PM/CM, leader of opposition and one minister.

RTI Act 2005 - Penalties

■ Penalties

imposed by Information Commission on PIO or officer asked to assist PIO

- For unreasonable delay - Rs 250 per day up to Rs 25,000
- For illegitimate refusal to accept application, malafide denial, knowingly providing false information, destruction of information, etc. - up to Rs. 25,000 fine
- Recommendation for departmental action for persistent or serious violations

However, no criminal liability

RTI Act 2005 - Access

- Universal Access - especially to the Poor
 - Fee at a reasonable level - though quantum not specified. No fee for BPL.
 - Assistant Public Information Officers at sub-district levels to facilitate filing of applications/appeals
 - No need to specify reason for seeking information or other personal details
 - Provision to reduce oral requests into writing
 - Provision to provide all required assistance, including to sensorily disabled persons.
 - Information to be provided in local languages
 - Provision for damages
 - However, only for citizens

RTI Act 2005–Responsibilities of Public Authorities

- Publishing all relevant facts while formulating important policies or announcing the decisions which affect public (4(1)(c)).
- Providing reasons for its administrative or *quasi judicial* decisions to affected persons (4(1)(d)).
- Providing information *suo moto* (4(2)).
- Providing information to Information Commission (25(2)).

RTI Act - Future Actions

- Make rules, appoint authorities, train and orient (www.righttoinformation.info).
- Popularise, fight cynicism and iron out problems.
- Anticipate and counteract the counter offensive (The President's Intervention)□.
- Provide mechanisms to protect applicants.
- Set up follow up mechanisms - Public Grievance Commissions and Lok Ayuktas?

THANK YOU