

ACCESS TO INFORMATION ACT, 2018

(Act 4 of 2018)

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information and the manner of payment;

- (d) manner of publication of any matter under the Act.

(3) The Minister may by regulation amend the Schedule.

SCHEDULE

(Section 2)

Public bodies for the purpose of this Act

1. Any authority or body or institution performing government functions, legislative functions or judicial functions and established or constituted—

- (a) by or under the Constitution; or
(b) by any written law.

2. A body owned, controlled or financed by the government.

3. Civil society organisations financed directly or indirectly by funds provided by the government.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 22nd May, 2018.



Mrs. Tania Isaac
Deputy Clerk to the National Assembly

activities during the preceding financial year and the Minister shall cause the report to be laid before the National Assembly.

PART IX - ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

71. The Information Commission shall, on such terms and conditions as may be determined by the Information Commission, employ such number of other employees as may be necessary in the performance of functions of the Information Commission, subject to the budgetary and other restrictions prescribed by regulations.

Staff of the Commission

72. The Chief Executive Officer and other members of the staff of the Information Commission or any other person acting under the direction of the Information Commission shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Application of provisions of Penal Code

73. A suit or other legal proceedings shall not lie against the Information Commission, Chief Information Commissioner, Information Commissioners, Chief Executive Officer or other employees of the Information Commission for any action taken or intended to have been taken in pursuance of the provisions of this Act.

Protection of action taken in good faith

74.(1) The Minister may make regulations for carrying into effect the purposes and provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the regulations made may provide for—

- (a) terms of office, salary and allowances of the Chief Information Commissioner, Information Commissioner and Chief Executive Officer;
- (b) fees for request for information and the manner of payment;
- (c) fees for reproduction or transcription of



ACCESS TO INFORMATION ACT, 2018

(Act 4 of 2018)

I assent



Danny Faure
President

20th July, 2018

AN ACT to foster good governance through enhancing transparency, accountability, integrity in public service and administration, participation of persons in public affairs, including exposing corruption, to recognise the right of access to information envisaged in Article 28 of the Constitution and for matters connected therewith and incidental thereto.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Access to Information Act, 2018.

Short title

- 2.** In this Act, unless the context otherwise requires—
- “head of the information holder” means the administrative head of the public body holding the information requested;
- “information” includes any original or copy of documentary material irrespective of its physical characteristics, such as records, correspondence, fact, opinion, advice, memorandum, data, statistic, book, drawing, plan, map, diagram, photograph, audio or visual record, and any other tangible or intangible material, regardless of the form or medium in which it is held in the possession or under the control of the public body;
- “information holder” means a public body;
- “Information Officer” means a person designated as the Information Officer of a public body in accordance with section 7;
- “inspect” means to view, manually take notes or listen to an audio recording of any information;
- “international organisation” means an international organisation of states or established by the governments of states;
- “Minister” means the Minister responsible for Information;
- “personal information” means an information or opinion (including information forming part of a database), whether true or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion;
- “persons with disabilities” includes those who have physical, mental, intellectual, or sensory impairments;

National Assembly pursuant to an Appropriation Act for the purposes of the Information Commission;

- (b) any monies received by the Information Commission by way of donations, gifts or grants from any legal sources, whether domestic or foreign; and
- (c) any proceeds from sale, lease or transfer of movable or immovable property of the Information Commission.

69.(1) The financial year of the Information Commission shall be the calendar year.

Accounts and
audit

(2) The Information Commission shall maintain proper accounts and other relevant records and prepare a statement of accounts in the form and manner approved by the Auditor-General.

(3) The account of the Information Commission shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

(4) Where the accounts and the statement of accounts of the Information Commission in respect of a financial year have been audited, the Information Commission shall furnish, not later than 3 months after the end of the financial year, to the Minister and the Minister responsible for finance, a copy of the statement together with a copy of any report by the Auditor-General on the statement of accounts or on the accounts of the Commission.

70. The Information Commission shall, as soon as possible after the expiration of each financial year and in any event not later than the 31st day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual report dealing generally with the administration and its

Annual
report

representative, that information will not be in the public domain only by reason of that grant of access.

Protection
against criminal
and civil
liability

66.(1) No person is criminally or civilly liable for the disclosure, or authorisation of the disclosure in good faith, of any information under this Act.

(2) No person may be detrimentally affected in the course of his or her employment by reason of the disclosure or authorisation of the disclosure in good faith of any information under this Act.

Offences

67. A person who with intent to deny a right of access to information under this Act—

- (a) destroys, damages or alters information;
- (b) conceals information;
- (c) falsifies information or makes a false record;
- (d) obstructs the performance by an information holder of a duty under this Act;
- (e) interferes or obstructs the work of the Information Commission; or
- (f) directs, proposes, counsels or causes any person in any manner to do any of the above,

commits an offence and is liable on conviction to imprisonment for a term of 5 years and a fine of SCR200, 000 or with both imprisonment and fine.

PART VIII - FINANCE, ACCOUNTS AND REPORTS

68. The funds of the Information Commission shall consist of—

- (a) such moneys as may be appropriated by the

Funds of the
Commission

“public body” means a body specified in the Schedule;

“prescribed” means prescribed by Statutory Instruments made under the Act;

“request” means a request made under section 9;

“requestor” means a person who requests access to information under this Act or any person acting on behalf of the person requesting access;

“sitting days of National Assembly” means days in which the National Assembly is in session;

“third party” means a person other than a public body or the requestor;

“third party information” means personal information or commercial and confidential information of a third party.

3.(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Oaths Act (Cap 153).

Act to have
overriding
effect

(2) Nothing in this Act limits or otherwise restricts any other provisions of a written law for a public body to disclose information.

PART II - ACCESS TO INFORMATION OF PUBLIC BODIES

4.(1) Every public body shall create, keep, organise and maintain its information in a manner which facilitates access to information, as provided in this Act.

Duty to
create, keep,
organise and
maintain
information

(2) For the purpose of subsection (1), every public body shall—

- (a) produce information in respect of all its activities, including those expressly provided for under section 5 of this Act;
- (b) arrange all information in its possession systematically and in a manner that facilitates prompt and easy identification and access; and
- (c) keep all information in its possession in good condition and in a manner that preserves the safety and integrity of its contents.

Proactive disclosure

5.(1) Every public body shall publish in such manner as may be prescribed the following information produced by or in relation to that body within 30 days of the information being generated or received by that body —

- (a) manuals, policies, procedures or rules or similar instruments which have been prepared for, or are used by, officers of the body in discharging that body's functions, exercising powers and handling complaints, making decisions or recommendations or providing advice to persons outside the body with respect to rights, privileges or benefits, or to obligations, penalties or other consequences, to or for which persons may be entitled or liable;
- (b) the name, designations and other particulars of the Information Officer of the public body, including his or her contact details and electronic addresses where persons may submit requests for information;
- (c) any prescribed forms, procedures, processes and rules for engagement by members of the public with the public body;

- holder;
- (b) varying the type of access originally granted or requested;
- (c) setting aside the decision of the information holder;
- (d) requiring the information holder to take such steps as may be necessary to secure compliance with its obligations under the Act; or
- (e) mandating negotiation, conciliation, and arbitration, pursuant to section 48(2)(a).

(2) The Information Commission may issue such directions as it considers necessary to enforce its decisions.

(3) The Information Commission may impose a fine not exceeding SCR25,000 in cases where the Information Officer without any reasonable cause refuses to receive an application for information or has not furnished information within the time specified under part II of the Act or in bad faith denied the request for information or has knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner the furnishing of information.

64. The Information Commission shall produce a statement of facts, findings and reasoning for decisions on matters before it, a copy of which shall be provided to all parties to the matter free of charge.

65.(1) Subject to subsection (2), a third party information to which a requestor is granted access shall thereafter be an information in the public domain.

(2) Where a requestor is granted access to his or her personal information or personal information of his or her next of kin or someone for whom he or she is the legal personal

Content of recommendations, findings, orders, decisions and directives

Third party information released is in public domain

and

- (c) a third party if the information requested contains third party information and the third party can reasonably be located.

(2) The right to be present during a hearing shall be upheld except when, in the view of the Information Commission, the circumstances require the holding of a hearing in camera.

(3) With respect to any matter before it, the Information Commission has the power to—

- (a) summon witnesses, or any person where necessary;
- (b) summon expert witnesses where appropriate;
- (c) allow interested parties on application to join proceedings;
- (d) provide assistance to applicants where appropriate;
- (e) allow relevant persons to participate in hearings;
- (f) compel any witness or evidence it considers necessary for the resolution of a matter; and
- (g) administer oaths and receive any such evidence it deems necessary under oath or on affidavit.

63.(1) The Information Commission may, on conclusion of the appeal proceedings before it, issue orders or recommendations on any matter before it, including—

- (a) affirming the decision of the information

- (d) the particulars of any arrangement, statutory or otherwise, that exists for consultation with, or representation by, members of the public in relation to the formulation or implementation of its policies, or similar documents;
- (e) where meetings of the public body, including its boards, councils, committees or similar other bodies are open to members of the public, the process for direct or indirect engagement and where a meeting is not open to the public, the contents of submissions received, the process for decision making and decisions reached;
- (f) detailed information on the design and execution of any subsidy programmes implemented with public funds, including the amounts allocated and expended, the criteria for accessing the subsidy, and the beneficiaries;
- (g) all contracts, licences, permits, authorisations and public-private partnerships granted by the public body;
- (h) reports containing the results of surveys, studies or tests, including scientific or technical reports and environmental impact assessment reports, prepared by the public body; and
- (i) any other information as directed by the Information Commission.

(2) Every public body shall annually publish in such manner as may be prescribed the following information produced by or in relation to that body—

- (a) the particulars of its organisation, functions and duties;
- (b) information containing interpretations or particulars of Acts or policies administered by the body;
- (c) details of its processes and procedures for creating, keeping, organising and maintaining information;
- (d) a list of all the categories of information held by it or under its control;
- (e) a directory of its employees including their powers, duties and titles, indicating the permanent staff, the temporary staff and the outsourced staff, recruitment procedures and vacancies;
- (f) the salary band for each public employee and officer, including the system of compensation as provided in its laws, and the procedures followed in its decision-making process, including channels of supervision and accountability;
- (g) detailed travel and hospitality expenses for each employee and officer, and gifts, hospitality, sponsorships or any other benefits received by each employee and officer;
- (h) a description of the composition, functions, and appointment procedures of the boards, councils, committees, and other bodies consisting of two or more persons, constituted for the purpose of advice to or managing the public body;

Information Officer within 48 hours of the request,

may appeal directly to the Information Commission.

(2) Where the Information Commission receives an appeal under subsection (1), the Information Commission may, upon an assessment of the facts, determine the matter summarily or undertake further investigation, if necessary, before such determination.

60. The Information Commission shall notify the head of the information holder concerned of the intention to carry out an investigation or hearing with a copy of the appeal before commencing an investigation or hearing under this Act.

Notice of intention to investigate or hear a matter

61.(1) The head of an information holder shall, immediately on receipt of a notice of a hearing or investigation from the Information Commission, inform the Information Commission of all third parties to whom the information relates.

Notice to third parties

(2) Subject to subsection (3), the Information Commission may issue such directions as are necessary to ensure that third parties in matters before it are notified of hearings or investigations.

(3) The Information Commission has the discretion to dispense with notification to third parties where it considers it necessary.

62.(1) In any matter before the Information Commission, a reasonable opportunity to make representations shall be given to —

Right to make representation

- (a) the person who made the application, and to the requestor, if he or she is not the applicant;
- (b) the head of the information holder concerned;

- appropriate in furtherance of the audit;
- (c) engage with staff of the body;
- (d) request copies of any information; and
- (e) access any information it deems necessary to undertake the audit.
- (3) The Information Commission shall —
- (a) notify the information holder of the audit;
- (b) issue time-bound recommendations to the information holder; and
- (c) monitor implementation of its recommendations.

Effect of non-compliance

57. In the event of non-compliance by an information holder with any of the obligations under sections 51 to 55, the Information Commission may issue a notice specifying a time-frame for compliance with the obligation and any further directives as the Information Commission considers necessary or appropriate.

PART VII - APPEAL TO THE INFORMATION COMMISSION

Appeal to the Information Commission

58. A requestor or a third party may appeal against the decision of the head of the information holder in writing to the Information Commission.

Direct appeal

59.(1) A requestor who requests access to information reasonably believed to be necessary to safeguard the life or liberty of a person and is —

- (a) refused access to the information within 48 hours of the request; or
- (b) receives no notice of the decision of the

- (i) the detailed actual budget, revenue, expenditure and indebtedness for the current financial year, including all related estimates, plans, projections and reports, including audit reports;
- (j) the annual report submitted to the Information Commission under section 54 of this Act; and
- (k) any other information as directed by the Information Commission.

6.(1) Every public body shall annually, within the time-frame stipulated by the Information Commission, submit to the Information Commission —

- (a) an information publication plan with respect to its proactive disclosure obligations in section 5 of this Act, in accordance with section 53(2) of this Act; and
- (b) annual reports on the implementation of this Act in accordance with section 54 of this Act.

(2) Every public body shall publish in the manner as may be prescribed the information manuals detailing the categories of information it proactively discloses in accordance with section 55.

7.(1) The head of every public body shall, in consultation with the Minister responsible for that public body, designate a suitable officer of that body as Information Officer for the purposes of this Act.

(2) The designation of the Information Officers under subsection (1) shall be published in the Gazette.

8. Subject to this Act, every person has a right to access to information from a public body.

Submission of implementation plans, annual reports and publication of information manuals

Designation of Information Officer

Right of access

Requests for
access

9.(1) A person who wishes to obtain access to information under this Act may make a request in writing to the Information Officer of the concerned public body:

Provided that no such request shall be made if any other written law provides for accessing such information.

(2) A request under subsection (1) shall be accompanied by such fee as may be prescribed.

(3) On receipt of a request, the Information Officer shall immediately provide a written acknowledgement of the request to the requestor.

(4) Subject to subsections (5)(b) and (c), a requestor shall not be required to provide a justification or reason for requesting any information.

(5) A request under subsection (1) shall —

- (a) provide such details concerning the information requested as are reasonably necessary to enable the Information Officer to identify the information;
- (b) if the requestor 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;
- (c) state the nature of the form in which the requestor prefers access; and
- (d) if the request is made on behalf of another person, include an authorisation from such person.

Duty to assist
requestors

10.(1) Where a person —

any person under this Act;

- (n) particulars of any disciplinary action taken against any person under this Act;
- (o) particulars of any difficulties encountered in the implementation of this Act in terms of the operations of the body, including issues of staffing and costs; and
- (p) recommendations for reform, or amendment of this Act, other legislation, or practice relevant to the optimal realisation of the objectives of this Act.

(2) The Information Commission may impose a fine not exceeding SCR100,000 on public bodies that do not comply with the annual reporting obligation.

(3) Public bodies shall incorporate the annual report submitted to the Information Commission under this Act into their annual reports submitted to the National Assembly.

55. The Information Officer of each public body shall annually, but no later than the end of the first quarter, submit to the Information Commission a report stating the categories of information that have been proactively disclosed by the public body, including those documents referred to in section 5, and the place where the public can access that information.

56.(1) The Information Commission may audit compliance with this Act by an information holder.

(2) The powers of the Information Commission to conduct an audit under subsection (1) include the power to —

- (a) conduct inspections;
- (b) undertake any investigation it deems

Proactive
disclosure
reports to the
Information
Commission

Auditing
powers of
Information
Commission

- full;
- (d) the number of requests for access refused—
- (i) in full; and
- (ii) in part;
- (e) the number of times each provision of Part III was relied on to refuse access in full or in part;
- (f) the number of cases in which the periods stipulated in section 11 were extended in terms of section 12;
- (g) the number of review applications lodged with the head of the information holder;
- (h) the number of reviews lodged on the ground that a request for access was regarded as having been refused in terms of section 14;
- (i) the number of cases in which, as a result of a review, access was given to information;
- (j) the number of appeals filed before the Information Commission and the outcome of those appeals;
- (k) a description of the steps or efforts taken by the head of the body to encourage all officers of that body to comply with the provisions of this Act;
- (l) any facts which indicate an effort by the body to administer and implement the spirit and intention of the Act according to its submitted plan;
- (m) particulars of any penalties imposed against

- (a) wishes to make a request to an information holder; or
- (b) has made a request to an information holder that does not comply with the requirements of this Act,

the Information Officer shall take all necessary steps to assist the person, free of charge, to make the request in a manner that complies with this Act.

(2) Where a person with a disability wishes to make a request, an Information Officer shall take all necessary steps to assist the person to make the request in a manner that meets his or her needs.

11.(1) Subject to subsection (2), the Information Officer to whom a request is made under section 9 shall, as soon as reasonably possible, but in any event within 21 days after the request is submitted—

Response
to requests

- (a) determine whether to grant the request;
- (b) notify the requestor of the decision in writing; and
- (c) subject to subsection (7), if the request is granted, subject to the payment of any applicable reproduction fee or transcription fee, give the requestor access to the information.

(2) Where a request relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person, the Information Officer shall within 48 hours after the request is submitted—

- (a) determine whether to grant the request;

- (b) notify the requestor of the decision in writing; and
- (c) if the request is granted, give the requestor access to the information.

(3) If the request is granted, the notice referred to in subsections (1) and (2) shall state—

- (a) the reproduction fee or transcription fee, if any, payable;
- (b) the form in which access to the information will be given; and
- (c) that the requestor may apply for a review of the reproduction or transcription fee payable or the form in which access has been granted in accordance with section 34.

(4) Subject to subsections (6) and (7), where a requestor has been given notice that his or her request has been granted, that requestor shall—

- (a) if a reproduction fee or transcription fee is payable, upon payment of that fee; or
- (b) if no reproduction fee or transcription fee is payable,

immediately be given access to the information.

(5) For the purposes of this Act, any information provided to a requestor by an information holder is presumed to be true and accurate in content and in form and the requestor may rely on and use that information on that basis.

(6) Where an Information Officer grants a request under subsection (2), the requestor shall be given access to the

Information Officer and the head of the information holder;

- (c) the guidelines developed by the Information Commission under section 51(2);
- (d) a description of any arrangement or provision for a person to make recommendations or to otherwise participate in the formulation of policy or the exercise of powers or performance of duties by the information holder;
- (e) a description of remedies available in respect of an act or omission by the information holder; and
- (f) the manner of payment of any reproduction fees, and transcription fees.

(6) An information holder shall—

- (a) update and publish its information manual whenever material changes to the information therein occur, but at least every 2 years; and
- (b) submit the updated information manual to the Information Commission.

54.(1) The Information Officer of each public body shall annually, but no later than the end of the first quarter, submit to the Information Commission a report stating in relation to the body in respect of the preceding year—

- (a) the number of requests for access received;
- (b) the number of requests for personal information received;
- (c) the number of requests for access granted in

only through the formal request process.

(3) With regard to proactively disclosed information, the Information Commission shall from time to time determine—

- (a) measures to be undertaken to ensure accessibility of information;
- (b) accessibility guarantees in terms of medium, format and language;
- (c) measures to ensure accuracy of information; and
- (d) additional categories of information not listed in section 5 that may be proactively disclosed.

(4) With regard to all other information, the Information Commission shall determine—

- (a) measures to be adopted to ensure periodic and frequent updating of all categories of information held by the information holder;
- (b) measures to be undertaken to ensure accessibility of information;
- (c) accessibility guarantees in terms of medium, format and language; and
- (d) measures to ensure accuracy of information.

(5) The information manual shall, together with the information required in subsection (2), include the following information about the information holder—

- (a) a description of the structure and its functions, powers and duties;
- (b) physical and electronic contact details of the

information immediately, irrespective of whether any reproduction fee or transcription fee has been paid.

(7) Where the information requested contains third party information, a requestor may not be given access to that information until such time as any right of the third party to appeal the release of the information has expired or any appeal lodged by the third party has been finally determined.

(8) If the request for information is refused, the notice referred to in subsections (1) and (2) shall—

- (a) state the reasons for the refusal, based on the contents and substance of the request and the information considered by the Information Officer;
- (b) contain a reference to specific provisions of this Act upon which the refusal is based; and
- (c) inform the requestor that he or she may apply for a review of the decision in accordance with section 34.

(9) Where an Information Officer considers that a request made under subsection (2) is not necessary to safeguard the life or liberty of a person, the Information Officer shall within 48 hours after the request is made—

- (a) provide notice of the decision with reasons thereof to the requestor;
- (b) inform the requestor that, subject to the requestor's right to apply for a review of the decision, the Information Officer will make a decision regarding whether to grant access to the requested information within the time period specified in subsection (1); and

- (c) inform the requestor that he or she may appeal to the Information Commission in respect of the decision in accordance with section 59.

Extension
of time

12.(1) Subject to subsection (2), the Information Officer to whom a request is made may extend the period to respond to a request in section 11(1) for a period of not more than 14 days if —

- (a) the request is for a large amount of information or requires a search through a large amount of information and meeting the original time limit would unreasonably interfere with the activities of the information holder concerned; or
- (b) consultations are necessary to comply with the request that cannot be reasonably completed within 21 days.

(2) If any part of the information requested can be considered by the Information Officer within the time period specified under section 11(1), it shall be reviewed and a response provided to the requestor in accordance with that section.

(3) If a period to respond to a request is extended in terms of subsection (1), the Information Officer shall, after the decision to extend time has been taken by him or her, but in any event within 21 days after the request is received, notify the requestor in writing of that extension.

- (4) The notice in terms of subsection (3) shall state —
 - (a) the period of the extension;
 - (b) reasons for the extension, based on the provisions of this Act; and

and compulsory training plans for staff;

- (f) plans for public consultations, community outreach, information-sharing and awareness raising;
- (g) plans for, and frequency of, self-initiated implementation audits; and
- (h) for the purpose of subsection (1)(b) —
 - (i) policies and plans for the purposes of realising its proactive disclosure obligations, including information classification processes; and
 - (ii) measures to ensure frequent and accurate proactive disclosure of information.

(3) The Information Commission may call for further plans or amended plans at its discretion.

(4) The Information Commission may issue directives on specific plans for enhanced implementation.

(5) The Information Commission may require the plan produced in terms of subsection (1) to be reviewed within such time-frames and at such frequencies as it deems necessary.

53.(1) As soon as possible but in any event within two years of the coming into operation of this Act, or within 6 months of the establishment of the body, whichever is the earlier, all information holders shall prepare information manuals, publish them such manner as may be prescribed, and submit them to the Information Commission.

(2) Manuals referred to in subsection (1) shall include the categories of information that the information holder will proactively disclose and those which will be made available

Monitoring

are required under this Act to the Information Commission.

(2) The Information Commission may, following public consultation, develop and publicise guidelines which detail the reporting requirements, including the manner, means and time-frames that apply to information holders.

(3) The Information Commission may request any further information from information holders to facilitate and enhance monitoring at any time.

Implementation plan

52.(1) Every public body shall submit an implementation plan to the Information Commission within 18 months of the operation of this Act, or within 6 months of the establishment of the body, whichever is the earlier, detailing —

- (a) its operational plan to implement its obligations under this Act; and
 - (b) an information publication plan in respect of its proactive disclosure responsibilities in section 5.
- (2) The plan referred to in subsection (1) shall include —
- (a) budgetary projections for implementations as against available resources for implementation;
 - (b) the details and identification of the staff required;
 - (c) processes, mechanisms and policies to facilitate and enhance implementation of this Act, including measures to secure optimal responsiveness to requests for information and record management;
 - (d) mechanisms it will use to monitor and track applications, notifications and responses;
 - (e) steps to secure continued capacity building

- (c) that the requestor may apply for a review of the decision in accordance with section 34.

13.(1) Where a request is made to a public body requesting information which the public body does not hold and —

Transfer of request

- (a) which the public body knows or reasonably considers that it is held by another public body; or
- (b) the subject matter of which is more closely connected with the functions of another public body,

the body to which such request is made shall transfer the request, or such part of it as may be appropriate, to that other public body.

(2) A public body that transfers a request in accordance with subsection (1) shall —

- (a) make the transfer as soon as practicable but in any event within five days from the date of receipt of the request; and
- (b) immediately notify the requestor of the transfer in writing.

(3) A public body that receives a transferred request shall immediately notify the requestor of receipt of the request in writing.

(4) Where a request is transferred to another public body in accordance with subsection (1), the request is deemed to have been —

- (a) made to the public body to which it was transferred; and
- (b) received by that public body on the day the

body to which it was originally made received it.

Deemed
refusal

14. If an Information Officer fails to give a decision on a request for information within the time specified in section 11(1) or, where that time period has been extended in accordance with section 12, within any extended period of time, the Information Officer is deemed to have refused the request.

Deferral
of access

15.(1) An Information Officer who receives a request for information may defer the provision of access to the information if —

- (a) the information has been prepared for presentation to National Assembly, but only until the expiration of five sitting days of the National Assembly; or
- (b) the information constitutes a report or part thereof that has been prepared for the purpose of reporting to an official body or a person acting in their capacity as an officer of the state, but only until the report has been presented or made available to that body or person or upon the expiration of 35 days from the date of the request, whichever is earlier.

(2) If an Information Officer determines to defer access to information under subsection (1), the Information Officer shall notify the requestor in writing —

- (a) of the decision as soon as possible but not later than 21 days after receiving the request;
- (b) of the reason for the decision, including the provisions of this Act relied on;

findings, recommendations, orders, decisions and directives.

(2) The Information Commission shall prepare a guide to this Act, in all national languages, to assist users in requesting information.

50.(1) The Information Commission shall promote awareness, educate and popularise the right of access to information.

Promotion

(2) In promoting the right of access to information, the Information Commission shall —

- (a) assess all implementation plans required in terms of section 52 to ensure information holders have clear obligations and processes which support awareness-raising and education interventions at community level, including to disadvantaged groups;
- (b) consult and collaborate with civil society organisations and interest groups;
- (c) provide recommendations and guidelines to information holders for internal training of personnel, and provide training on request;
- (d) monitor internal training of staff within public bodies and issue notices for mandatory training where necessary;
- (e) assist both requestors and information holders on matters of interpretation of the Act; and
- (f) develop such material as it deems necessary to advance the promotion of access to information.

51.(1) Information holders shall provide such reports as

- form of, issuing and service of notices and communications; and
- (e) decide on issues of representation where necessary.
- (4) The Information Commission has the power to —
- (a) issue written orders obliging the production of information;
- (b) examine, reproduce, take extracts from or hold information for as long as is necessary;
- (c) require the production of information to which access has been refused on the basis of an exemption under Part III, for the purpose of deciding whether it is an exempt document;
- (d) limit access to information by the parties in terms of this Act; and
- (e) take any such other action or issue and serve notices as may be appropriate for the resolution of any matter before it.

49.(1) The Information Commission has a duty to —

- (a) conduct matters with as little technicality or formality and as expeditiously as possible;
- (b) consider the needs of persons who wish to make protected disclosures, minors and other vulnerable groups;
- (c) hold hearings in public unless it is inappropriate to do so; and
- (d) publish quarterly in the manner prescribed, its

General duties
of the
Information
Commission

- (c) of the likely period for which access is to be deferred; and
- (d) that the requestor may, within 14 days of receiving notice, make written representations to the Information Officer regarding why the information is required before such presentation.

(3) If a requestor makes a representation in terms of subsection (2)(d), the Information Officer, after due consideration of those representations, shall, as soon as reasonably possible but in any event within five days, grant the request for access if there are reasonable grounds for believing that the requestor will suffer substantial prejudice if access to the information is deferred for the likely period referred to in subsection (2)(c).

16.(1) If an Information Officer has taken all reasonable steps to find the information requested and has concluded that the information —

- (a) is in the possession of the information holder but cannot be found; or
- (b) does not exist,

the Information Officer shall, as soon as possible but in any event within 21 days of the receipt of the request, notify the requestor in writing that the information cannot be found or does not exist.

(2) The notice referred to in subsection (1) shall state the details of steps taken by him or her to find the information or to determine whether the information exists, including —

- (a) details of all locations searched for the information and the person or persons that conducted those searches;

Information
that cannot
be found or
does not
exist

- (b) details of any communications with any person that the Information Officer contacted in searching for the information or attempting to establish the existence of the information; and
- (c) any evidence relating to the existence of the information including —
 - (i) any evidence that the information was destroyed; and
 - (ii) the location in which the information was last known to be held.

(3) If information is found after notice is given to a requestor under subsection (1), the Information Officer shall immediately notify the requestor in writing and thereafter as soon as possible but in any event within 14 days —

- (a) determine whether to grant the request;
- (b) notify the requestor of the decision in writing; and
- (c) if the request is granted, subject to the payment of any applicable reproduction fee or transcription fee, give the requestor access to the information.

(4) If access to the information is granted, the notice referred to in subsection (3) shall comply with section 11(3) and access shall be given in accordance with sections 11(4) and 11(7).

(5) If access to the information is refused, the notice referred to in subsection (3) shall comply with section 11(8).

17.(1) Access to information shall be given to a requestor in one or more of the following forms —

Form of
access

deems appropriate, convene a panel of experts for the purpose of exercising any power, duty or function under this Act.

Engagement
of experts

48.(1) The Information Commission has the power to determine the nature, process and undertakings necessary to discharge its mandate in terms of this Act, including all work necessary for the promotion, monitoring and protection of the right of access to information.

Powers and
duties of the
Information
Commission

(2) The Information Commission has, at its own discretion, the power to —

- (a) resolve a matter through negotiation, conciliation or mediation where it deems such recourse appropriate;
- (b) determine the need for, form of and type of investigation required for the determination of any matter; and
- (c) authorise or undertake any such action it deems necessary or appropriate for the execution of its mandate under this Act.

(3) The Information Commission may —

- (a) determine and issue general directions for the hearing of a matter, including notification of parties;
- (b) issue specific directions where issues of sensitivity to the state are concerned;
- (c) issue specific directions in matters concerning confidential information or minors or circumstances which it deems appropriate for such action;
- (d) decide on all matters relating to the need for,

Powers of
the Chief
Executive
Officer

44. The Chief Executive Officer may formulate rules and procedures providing for—

- (a) the control, direction and administration of the Information Commission;
- (b) the discipline, training, classification and promotion of officers of the Information Commission;
- (c) the duties of officers of the Information Commission; and
- (d) such other matters as he or she may consider necessary or expedient for preventing the abuse of power or neglect of duty by officers or other staff.

Limitation on
outside work

45. The Chief Information Commissioner, Information Commissioner or the Chief Executive Officer shall not, during their terms of office, occupy or engage in any other activity, profession or trade for financial gain, or any political activity.

PART VI - POWERS AND DUTIES OF THE INFORMATION COMMISSION

Rules,
procedures
and code of
conduct of the
Information
Commission

46.(1) The Information Commission may, through a process of public consultation, develop its own rules, procedures and code of conduct to regulate its affairs.

(2) The Information Commission may amend any rules, procedures and code of conduct made under subsection (1).

(3) Rules, procedures and codes of conduct made under subsection (1) and any amendment thereto if any made under subsection (2) shall be published in the manner prescribed.

47. The Information Commission may, whenever it

- (a) a reasonable opportunity to inspect the information;
- (b) a copy of the information;
- (c) in the case of information that is an article or thing from which sounds or visual images are capable of being reproduced, the making of arrangements for the person to hear, view, record or copy those sounds or visual images;
- (d) in the case of information by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form, provision by the information holder of a written transcript;
- (e) in the case of information which is held on a computer, or in electronic or machine-readable form, and from which the information holder concerned is capable of producing a printed copy of the information or part of it, by supplying such a copy; or
- (f) in the case of information available or capable of being made available in computer readable form, by supplying a copy in that form.

(2) Subject to subsection (4), where the requestor has requested access to information in a particular form, access shall be given in that form.

(3) A requestor may amend his or her preferred form of access on receipt of notice of the reproduction fee or transcription fees payable if access is granted in the form initially requested.

(4) If giving access to information in the form requested by the requestor is likely to —

- (a) unreasonably interfere with the operations of the information holder;
- (b) be detrimental to the preservation of the information; or
- (c) having regard to the physical nature of the information, render access in the requested form inappropriate,

access in that form may be refused if access is given in another form authorised under this Act.

(5) Where a person requests access to information in a particular form and for a reason specified in subsection (4) access in that form is refused but access is given in another form, the reproduction fee charged may not exceed what would have been charged if that requestor had been given access in the form requested.

(6) If a requestor with a disability is prevented by that disability from reading, viewing or listening to the information concerned in the form in which it is held by the information holder, the Information Officer shall, if that requestor so requests, take reasonable steps to make the information available in a form in which it is capable of being read, viewed or heard by the requestor.

Language
of access

18. Information shall be provided to a requestor in the national language in which it is kept.

Fees

19.(1) A requestor is not required to pay any fee —

- (a) in relation to time spent by an information holder searching for the information requested; or

(2) The term of office, salary and allowances of the Chief Executive Officer shall be such as may be prescribed.

42. The President may, on the recommendation of the Commission, terminate the appointment of the Chief Executive Officer, where the Chief Executive Officer —

Termination of
appointment
of Chief
Executive
Officer

- (a) has been found guilty of any misconduct, default or breach of trust in the discharge of any duties;
- (b) is an undischarged insolvent or bankrupt;
- (c) is convicted of an offence and sentenced to a term of imprisonment of three months or more; or
- (d) is mentally or physically incapable of carrying out the functions under this Act.

43.(1) Subject to the direction, control and supervision of the Information Commission, the Chief Executive Officer, —

Responsibility
of the Chief
Executive
Officer

- (a) shall be responsible for the implementation of the decisions of the Commission for the effective management and carrying out of the affairs of the Commission;
- (b) may sign documents on behalf of the Commission; and
- (c) may delegate any function of the Chief Executive Officer to any employee of the Commission.

(2) The Chief Executive Officer shall act in accordance with directives and instructions he or she may receive from the Information Commission in the implementation of policy matters.

Information Commissioner before the expiry of the term of office, the person appointed to fill such vacancy shall hold office for the remainder of the term for which his or her predecessor in office would have held office if such vacancy had not occurred.

Termination
of
appointment

40.(1) Subject to the provisions of subsections (2), (3) and (4), the President may remove from office the Chief Information Commissioner or Information Commissioner on grounds of gross misbehavior.

(2) Where a complaint, allegation or report of misbehaviour against the Chief Information Commissioner and Information Commissioner is received and the President is prima facie satisfied that it shall be enquired into, the President shall refer the matter to the Chief Justice of the Supreme Court for enquiry and report.

(3) Where a question of removing the Chief Information Commissioner or Information Commissioner is referred to the Chief Justice, the President may suspend the Chief Information Commissioner or Information Commissioner as the case may be, from performing the functions of the Commission but the suspension shall cease to have effect if the Chief Justice recommends to the President that the Chief Information Commissioner or Information Commissioner, as the case may be, ought not be removed from office.

(4) The Chief Justice shall on a reference made under subsection (2) hold an enquiry and recommend to the President that Chief Information Commissioner or Information Commissioner ought to be removed on such ground or grounds and the President shall act accordingly.

Appointment
of Chief
Executive
Officer

41.(1) There shall be a Chief Executive Officer of the Commission who shall be appointed by the President on the recommendation of the Information Commission.

(b) in relation to time spent by the information holder examining the information to determine whether it contains exempt information or deleting exempt information from a document.

(2) An information holder may charge the requestor a reproduction fee as may be prescribed.

(3) Where a request is made that a written transcription be produced of any information provided to the requestor, the information holder may recover the costs of such transcription at such rate as may be prescribed from the requestor.

PART III - EXEMPTIONS

20. An Information Officer may refuse to grant access to information if the information requested for falls within an exemption stated in this Part.

Refusal

21.(1) Subject to subsection (2), an Information Officer may refuse a request for information if its release would involve the unreasonable disclosure of personal information about a natural third party, including a deceased individual.

Personal
information
of a third
party

(2) A request shall not be refused in terms of subsection (1) where—

- (a) the third party does not make a representation under section 33(3) stating why access to the information should not be granted;
- (b) the third party consents to the disclosure;
- (c) the third party has been deceased for more than 10 years;
- (d) the information is in the public domain;

- (e) the information relates to the physical or mental well-being of an individual who is under the care of the requestor and who is —
 - (i) under the age of 18 years; or
 - (ii) incapable of understanding the nature of the request, and giving access would be in the individual's interests;
- (f) the information is about a deceased individual and the requestor is —
 - (i) the individual's next of kin or legal representative;
 - (ii) making the request with the written consent of the individual's next of kin or legal representative;
 - (iii) the executor of the deceased's estate; or
 - (iv) the trustee of a trust which can benefit from the deceased individual's estate;
- (g) the information relates to the position or functions of an individual who is or was an official of the information holder or any other public body;
- (h) the information was given to the information holder by the individual to whom it relates and the individual was informed by or on behalf of the information holder, before it was given, that the information belongs to a class of information that would or might be made available to the public.

(2) A person shall not be appointed as the Chief Information Commissioner or Information Commissioner if that person —

- (a) holds office in, or is an employee of, a political party;
- (b) has been convicted and served a sentence of imprisonment for term of six months or more for an offence involving fraud, dishonesty or moral turpitude.

39.(1) The Chief Information Commissioner or an Information Commissioner may resign upon giving two month's written notice to the President.

(2) The office of the Chief Information Commissioner or Information Commissioner, as the case may be, shall become vacant if the incumbent —

- (a) is absent from three consecutive meetings of the Commission, without reasonable excuse;
- (b) is adjudged bankrupt;
- (c) is convicted of an offence under any written law and sentenced therefor to imprisonment for a term of six months or more, without the option of a fine;
- (d) is declared to be of unsound mind or physically incapable for carrying out the functions of the Chief Information Commissioner or Information Commissioner as the case may be; or
- (e) dies.

(3) Where a vacancy arises for any reason whatsoever in the office of the Chief Information Commissioner or

Resignation of
Chief
Information
Commissioner,
Commissioners
and Vacancy of
office

Appointments Authority, a Chief Information Commissioner and two Information Commissioners.

(2) The Constitutional Appointments Authority shall select and propose candidates on the basis of their experience and knowledge specified in subsection (3) and qualification specified in section 38.

(3) A person to be appointed as a Chief Information Commissioner or Information Commissioner shall have wide experience and knowledge in any one or more of the following fields of services—

- (a) accounting;
- (b) administration and governance;
- (c) law;
- (d) science and technology;
- (e) management; or
- (f) social sciences.

(4) The term of office, salary and allowances of the Chief Information Commissioner and Information Commissioners shall be such as may be prescribed.

38.(1) A person who qualifies under section 37 is eligible to be appointed as the Chief Information Commissioner or Information Commissioner if that person—

- (a) is a citizen of, and resides permanently in, the Republic;
- (b) is of proven integrity; and
- (c) has distinguished record of public service, or service in a profession or vocation.

Eligibility of
Chief
Information
Commissioner
and
Commissioners

22.(1) Subject to subsection (2), an Information Officer may refuse a request for information if it contains—

- (a) trade secrets of the information holder or a third party; or
- (b) information about the information holder or a third party that would substantially prejudice a legitimate commercial or financial interest of the information holder or third party.

Commercial
and
confidential
information of
an information
holder or a
third party

(2) A request may not be refused in terms of subsection (1) where—

- (a) the disclosure of the information would facilitate accountability and transparency of decisions taken by the information holder;
- (b) the information relates to the expenditure of public funds;
- (c) the disclosure of the information would reveal misconduct or deception;
- (d) the third party consents to the disclosure; or
- (e) the information is in the public domain.

23. An Information Officer may refuse a request for information where the release of the information is likely to endanger the life, health or safety of an individual.

Protection
of life,
health and
safety of an
individual

24.(1) An Information Officer may refuse to grant access to information if such access would cause substantial prejudice to the security or defence of the state.

National
security and
defence

(2) For the purpose of this section, security or defence of the state means—

- (a) military tactics or strategy or military exercises or operations undertaken in preparation for hostilities or in connection with the detection, prevention, suppression, or curtailment of subversive or hostile activities;
 - (b) intelligence relating to—
 - (i) the defence of the state; or
 - (ii) the detection, prevention, suppression or curtailment of subversive or hostile activities;
 - (c) methods of, and scientific or technical equipment for, collecting, assessing or handling information referred to in paragraph (b);
 - (d) the identity of a confidential source; or
 - (e) the quantity, characteristics, capabilities, vulnerabilities or deployment of anything being designed, developed, produced or considered for use as weapons or such other equipment, excluding nuclear weapons.
- (3) For the purpose of this section, subversive or hostile activities means—
- (a) an attack against the state by a foreign element;
 - (b) acts of sabotage or terrorism aimed at the people of the state or a strategic asset of the state, whether inside or outside the state; or
 - (c) a foreign or hostile intelligence operation.

- (b) contain a reference to specific provisions of this Act upon which the refusal is based; and
 - (c) inform the requestor that he or she may appeal to the Information Commission against the decision in accordance with section 58, and the process of lodging that appeal.
- (6) Where a third party has lodged an application for review, the notice referred to in subsection (1) shall state—
- (a) reasons for the decision; and
 - (b) that the third party may appeal to the Information Commission under section 58 against the decision, and the process for lodging that appeal.
- (7) If the head of the information holder fails to give a decision on a review application within the time specified in subsection (1), the head of the information holder is deemed to have affirmed the original decision of the Information Officer and the requestor may appeal to the Information Commission under section 58.

PART V - INFORMATION COMMISSION

36.(1) There is hereby established the Information Commission which shall be a body corporate with perpetual succession and a common seal capable of suing and being sued in its name.

Information
Commission

(2) The Commission shall be a self-governing, neutral and independent body and shall not be subject to the direction or control of any person or authority.

37.(1) The President shall, in consultation with the Speaker of the National Assembly, appoint to the Commission from among candidates proposed by the Constitutional

Appointment and
composition
of the
Information
Commission

- (a) the reproduction fee or transcription fee, if any payable;
- (b) the form in which access will be given; and
- (c) that the requestor may appeal to the Information Commission under section 58 against the decision in respect of the reproduction fee, or transcription fee payable or the form of access and the process for lodging that appeal.

(3) Subject to subsection (4), where a requestor has been given notice under subsection (2), that requestor shall —

- (a) if a reproduction fee or transcription fee is payable, upon payment of that fee; or
- (b) if no reproduction fee or transcription fee is payable, immediately,

be given access to the information.

(4) Where the head of the information holder has determined to release information containing third party information, the requestor may not be granted access to that information until such time as any right of the third party to appeal against the decision under section 58 has expired or any appeal lodged by the third party has been finally determined.

(5) If the head of the information holder determines not to grant access to the information, the notice to the requestor referred to in subsection (1) shall —

- (a) state reasons for the refusal, based on the contents and substance of the request and the information considered by the head of the information holder;

25. An Information Officer may refuse to grant access to information —

International relations

- (a) supplied by or on behalf of the state to another state or an international organisation in terms of an international agreement with that state or organisation which requires the information to be held in confidence;
- (b) required to be held in confidence by international law;
- (c) on the positions adopted or to be adopted by the state, another state or an international organisation for the purpose of present or future international negotiations; or
- (d) that constitutes diplomatic correspondence exchanges with another state or with an international organisation or official correspondence exchanges with diplomatic missions or consular posts of the country,

if the release of the information would cause substantial prejudice to the international relations of the state.

26. An Information Officer may refuse to grant access to information if the disclosure of such information would cause serious prejudice to the economy of the state by disclosing prematurely decisions to change or continue economic or financial policy relating to —

Economic interests of the state

- (a) exchange rates;
- (b) the regulation of banking or credit;
- (c) taxation;

- (d) the stability, control and adjustment of prices of goods and services, rents and other costs and rates of wages, salaries and other income; or
- (e) the entering into of overseas trade agreements.

Law
enforcement

27. An Information Officer may refuse to grant access to information, if such access would cause prejudice to —

- (a) the prevention or detection of crime;
- (b) the apprehension or prosecution of offenders;
- (c) the administration of justice;
- (d) the assessment or collection of any tax or duty; or
- (e) the security and life of an informant relating to a crime or investigation.

Privileged
documents

28. An Information Officer may refuse to grant access to information if it —

- (a) consists of confidential communication between a medical practitioner and his or her patient;
- (b) consists of confidential communication between a lawyer and his or her client;
- (c) consists of confidential communication between a journalist and his or her source; or
- (d) would otherwise be privileged from production in legal proceedings,

unless the patient, client, source or person, as the case may be, entitled to the privilege consents to the release or has waived the privilege.

within 10 days of the receipt of a decision of an Information Officer.

(6) An application for review shall identify the request and decision of the Information Officer which is the subject of the review.

(7) If an application under subsection (1) is lodged after the expiry of 60 days, the Information Officer may, upon good cause shown and with the approval of the head of the information holder, allow the late lodging of the application.

(8) As soon as possible, but in any event within five days after receipt of a review application, the Information Officer shall submit to the head of the information holder —

- (a) the review application;
- (b) the Information Officer's reasons for the decision; and
- (c) the information that is the subject of the review,

and notify the requestor and, where relevant, the third party in writing that the documents have been so submitted.

35.(1) The head of the information holder to whom a review application is submitted in accordance with section 34 shall as soon as reasonably possible, but in any event within 15 days after the review application is received by the Information Officer —

- (a) make a decision; and
- (b) notify the requestor or the third party, as the case may be, of that decision in writing.

(2) If the head of the information holder determines to grant access to the information, the notice to the requestor referred to in subsection (1) shall state —

Decision on
review

under section 11(2) and that information contains personal information of a natural third party or commercial or confidential information of a third party, the Information Officer shall take reasonable steps to inform the third party to whom or which the record relates, in writing, of —

- (a) the nature of the request and the content of the information;
- (b) the name of the requestor; and
- (c) whether the Information Officer released the information to the requestor.

(8) Where an Information Officer shall respond to a request within 48 hours under section 11(2), a third party shall not have the right to make a representation to the Information Officer stating why the request should not be granted.

PART IV - REVIEW OF DECISIONS

Right of
review

34.(1) The head of the information holder may, on application, review a decision taken by the Information Officer under this Act.

(2) A requestor may apply for a review of any decision of an Information Officer.

(3) A third party may apply for a review of a decision of an Information Officer to grant access to information containing its third party information.

(4) An application for review under subsection (2) shall be filed with the Information Officer of the public body within 60 days of the receipt of the relevant decision of an Information Officer.

(5) An application for review under the subsection (3) shall be filed with the Information Officer of the relevant body

29.(1) An Information Officer may refuse a request for information relating to an academic or professional examination or recruitment or selection process prior to the completion of that examination or recruitment or selection process if the release of the information is likely to jeopardise the integrity of that examination or recruitment or selection process.

Academic or
professional
examination
and
recruitment
processes

(2) Information referred to under subsection (1) shall be released on request after the academic or professional examination or recruitment or selection process has been completed.

30. An Information Officer may refuse a request for information relating to a proposal submitted to the Cabinet for consideration and minutes and decisions of the Cabinet unless the Cabinet Secretary authorises such release.

Proposal
submitted to
cabinet

31.(1) Where a portion of a record or document containing requested information is exempt from release under this Part, the exempt portion of the information shall be severed or redacted from the record or document and access to the remainder of the information shall be granted to the requestor.

Severance

(2) Where an Information Officer severs or redacts any portion of a record or document, the Information Officer shall indicate the length or amount of information severed or redacted in the response to the requestor.

32.(1) An Information Officer may refuse a request if the request is manifestly vexatious.

Vexatious
requests or
provision in
other laws
for
information

(2) An information Officer may refuse a request in cases where any written law other than this Act provides for giving the information requested for.

(3) Where an Information Officer refuses a request under subsection (1), the notice referred to in section 11(8)

shall include the reasons that the Information Officer considers the request to be manifestly vexatious.

Notice to
third
parties

33.(1) If an Information Officer is considering a request for access to personal information of a natural third party or commercial or confidential information of a third party, the Information Officer shall take reasonable steps to inform the third party to whom or which the information relates or, where the third party is deceased, the next of kin or legal representative of the third party, in writing of the request as soon as reasonably possible, but in any event within eight days after the request is received.

(2) Subject to subsection (7), when informing the third party under subsection (1), the Information Officer shall include in the notice —

- (a) the nature of the request and the content of the information;
- (b) that the third party may consent to the release of the information or make a representation as to why access to the information should not be granted in accordance with subsection (3);
- (c) that if the third party does not make a representation as to why access to the information should not be granted, access will be given;
- (d) that the Information Officer may give access after considering the representation under subsection (3) on merits; and
- (e) that if the Information Officer determines to release the information, the third party may apply for review under section 34.

(3) Subject to subsection (8), within 10 days of being informed of a request under subsection (1), a third party may —

- (a) inform the Information Officer in writing that he or she consents to the release of the information to the requestor; or
- (b) make a representation to the Information Officer in writing stating why the request for access to the information should not be granted.

(4) Where a third party does not provide a response under subsection (3) within 10 days of receipt of the intimation or cannot be located after reasonable steps have been taken to do so, the Information Officer may assume that the third party does not object to the information being granted to the requestor.

(5) On determining whether to grant the requestor access to the personal or commercial or confidential information of the third party, the Information Officer shall notify the third party in writing of the decision as soon as possible, but in any event within three days after the decision.

(6) If the Information Officer has granted the request for access in circumstances where the third party objected to the granting of access, the notice referred to in subsection (5) shall state —

- (a) the reasons for granting the request;
- (b) that the third party may apply for a review of the decision under section 34 within 10 days of receipt of the notice; and
- (c) that the requestor will be granted access to the information unless an appeal is lodged within the 10-day period.

(7) If the Information Officer is considering a request which the Information Officer shall respond to within 48 hours