



REPUBLIC OF GHANA

RIGHT TO INFORMATION ACT, 2019

(ACT 989)

ARRANGEMENT OF SECTIONS

Section

Access to Official Information

1. Right of access to information
2. Responsibility of Government to provide information

Compilation and Publication of Manual on Information of a Public Institution

3. Responsibility of public institution in respect of access
4. Provision of guidelines for manual

Exempt Information

5. Information for the President or the Vice-President
6. Information relating to Cabinet
7. Information relating to law enforcement and public safety
8. Information affecting international relations
9. Information that affects the security of the State
10. Economic and any other interests
11. Economic information of third parties
12. Information relating to tax
13. Internal working information of public institutions
14. Parliamentary privilege, fair trial, contempt of court
15. Privileged information
16. Disclosure of personal matters
17. Disclosure for the protection of public interest

Procedure for Access

18. Application to access information
19. Person to deal with application
20. Transfer of application
21. Information readily available in official publication
22. Deferred access
23. Decision on application
24. Non-existent information
25. Extension of time to deal with an application
26. Refusal to process
27. Refusal of access
28. Manner of access

Amendment of Personal Records in Custody of a Public Institution

- 29. Amendment of personal records
- 30. Application for amendment of information

Internal Reviews and Appeals

- 31. Right to internal review
- 32. Application for internal review
- 33. Decision on internal review
- 34. Notice to third parties
- 35. Affirmation of decision
- 36. Application to High Court for judicial review
- 37. Powers of the High Court
- 38. Ruling of the High Court
- 39. Appearance before the Commission

Establishment of the Right to Information Commission

- 40. Establishment of the Commission
- 41. Object of the Commission
- 42. Independence of the Commission
- 43. Powers of the Commission
- 44. Functions of the Commission
- 45. Promotion of right to information
- 46. Research and law reform
- 47. Monitoring powers of the Commission
- 48. Governing body of the Commission
- 49. Tenure of office of members of the Board of the Commission
- 50. Meetings of the Board
- 51. Disclosure of interest
- 52. Establishment of committees
- 53. Allowances
- 54. Limitation on outside work

Administrative and Financial Provisions

- 55. Appointment of Executive Secretary
- 56. Functions of the Executive Secretary

57. Appointment of other staff
58. Secretary to the Board
59. Engagement of expert
60. Funds of the Commission
61. Bank account
62. Expenses of the Commission
63. Accounts and audit
64. Annual report and other reports

Application for Review by the Commission

65. Application for review
66. Exhaustion of internal review procedure
67. Direct access
68. Right to make representations
69. Notices and communications
70. Duty to assist Commission

Orders, Decisions and Directives of the Commission

71. Orders, decisions and directives

General and Miscellaneous Provisions

72. Burden of proof
73. Information officers
74. Immunities
75. Fees and charges of public institution
76. Retention of charges
77. Annual reports by public institutions
78. Limitation of period for information exempt from disclosure
79. Information held by the national archives, museums and libraries
80. Application of Act to existing and future information
81. Offence of disclosure of exempt information
82. Other offences
83. Regulations
84. Interpretation
85. Application to and modification of existing enactments
86. Commencement

SCHEDULE

- PART A -The Official Oath
PART B - The Oath of Secrecy



THE NINE HUNDRED AND EIGHTY-NINTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED

RIGHT TO INFORMATION ACT, 2019

AN ACT to provide for the implementation of the constitutional right to information held by a public institution, subject to the exemptions that are necessary and consistent with the protection of the public interest in a democratic society, to foster a culture of transparency and accountability in public affairs and to provide for related matters.

DATE OF ASSENT: *21st May, 2019*

PASSED by Parliament and assented to by the President:

Access to Information

Right of access to information

1. (1) A person has the right to information, subject to the provisions of this Act.

(2) The right may be exercised through an application made in accordance with section 18.

(3) A person may apply for information without giving a reason for the application.

(4) Despite subsection (3), where an applicant requests that the application be treated as urgent, the applicant shall state the reason for the urgency.

Responsibility of Government to provide information

2. The Government shall make available to the public, general information on governance without an application from a specific person.

*Compilation and Publication of Manual on Information of a Public Institution***Responsibility of public institution in respect of access**

3. (1) A public institution shall, within twelve months from the date of the coming into force of this Act, and every twelve months after that date, compile and publish an up-to-date information in the form of a manual.

(2) The manual shall contain

- (a) a list of departments or agencies under that public institution and a description of the organisational structure and responsibilities of each public institution including details of the activities of each division or branch of the public institution;
- (b) a list of the various classes of information which are prepared by or are in the custody or under the control of each public institution;
- (c) a list of the types of information that may be accessed or inspected free of charge or subject to a fee payable in respect of an access to information as specified under section 75;
- (d) the name, address and any other contact details of the information officer or a designated officer of the public institution where a request to access information may be made;
- (e) the telephone number, fax, e-mail, postal address and any other contact detail of the information unit in the public institution where information which is accessible under this Act or any other enactment, can be accessed; and
- (g) the arrangements made or procedures established by the public institution to enable a member of the public to seek amendment of that member's personal official records with the public institution.

(3) A public institution shall

- (a) generate, process, maintain and preserve information which is accurate and authentic; and
- (b) establish an information unit headed by an information officer who shall facilitate access to information.

Provision of guidelines for manual

4. The Right to Information Commission shall, in consultation with the Minister issue guidelines for the preparation under section 3 of the manual by a public institution.

*Exempt Information***Information for the President or the Vice-President**

5. (1) Information is exempt from disclosure where the information
- (a) is prepared for submission or has been submitted to the President or Vice-President for consideration; or
 - (b) contains matters the disclosure of which would reveal information concerning opinion, advice, deliberation, recommendation, minutes or consultation made or given to the President or the Vice-President and is likely to
 - (i) undermine the deliberative process on the part of the President or of the Vice-President; or
 - (ii) prejudice national security.
- (2) Information which contains factual or statistical data is not exempt information.

Information relating to Cabinet

6. (1) Information is exempt from disclosure where the information
- (a) is prepared for submission to Cabinet or submitted to Cabinet for consideration, or
 - (b) is at Cabinet, not published or released to the public, and
 - (c) contains matters the disclosure of which would reveal information concerning opinion, advice, deliberation, recommendation, minutes or consultation made and is likely to
 - (i) prejudice the effective formulation or development of government policy;
 - (ii) frustrate the success of a policy by premature disclosure of that policy;
 - (iii) undermine the deliberative process in Cabinet; or
 - (iv) prejudice national security.
- (2) Information which contains factual or statistical data is not exempt information.
- (3) Cabinet may publish or grant access to information that is otherwise exempt under this section.

(4) For the purposes of this section, Cabinet includes a committee or sub-committee of Cabinet.

Information relating to law enforcement and public safety

7. (1) Information is exempt from disclosure where the information contains matters which if disclosed can reasonably be expected to

- (a) interfere with the prevention, detection or curtailment of a contravention or possible contravention of an enactment,
- (b) prejudice the investigation of a contravention or possible contravention of an enactment,
- (c) reveal investigation techniques and procedures in use or likely to be used in law enforcement,
- (d) disclose the identity of a confidential source of information, matter or the information given by a confidential source in respect of law enforcement,
- (e) impede the prosecution of an offence,
- (f) endanger the life or physical safety of a person,
- (g) prejudice the fair trial of a person or the impartial adjudication of a case,
- (h) reveal a record of information that has been confiscated from a person by a police officer or a person authorised to effect the confiscation in accordance with an enactment,
- (i) interfere with the maintenance or enforcement of a lawful method or procedure for protecting the safety of the public,
- (j) endanger the security of a building, structure or means of transport or a system including computer and communication systems for which security is reasonably required,
- (k) prejudice the security of a prison or place for lawful detention,
- (l) facilitate the escape of a person from lawful custody, or
- (m) prejudice a system or procedure for witness protection or any other procedure for the protection of persons or property where the protection is required.

(2) Despite subsection (1), information is not exempt from disclosure where that information

- (a) consists merely of a report on the outcome of a programme adopted by a public institution to deal with a contravention or possible contravention of an enactment;

- (b) contains a general outline of the structures of a programme adopted by a public institution to deal with a contravention or possible contravention of an enactment; or
- (c) consists merely of a report on a law enforcement investigation that has already been disclosed to the person who is the subject of the investigation.

Information affecting international relations

8. (1) Information is exempt from disclosure if the disclosure of that information can reasonably be expected to

- (a) damage or prejudice the relations between the Government and the government of any other country,
- (b) reveal information communicated in confidence to a public institution by or on behalf of another government,
- (c) reveal information communicated in confidence to a public institution by an international organisation or a body of that organisation,
- (d) reveal information communicated in confidence by a public institution to
 - (i) another public institution in another country or another government; or
 - (ii) an international organisation or a body of that organisation.

(2) Despite subsection (1), the exempt information may be disclosed if the President gives prior approval for the disclosure.

Information that affects the security of the State

9. (1) Information is exempt from disclosure if the disclosure of that information can reasonably be expected to

- (a) damage or prejudice the defence of the Republic or a foreign State allied to or friendly with the Republic, or
- (b) be prejudicial to the detection, prevention or suppression of terrorism, sabotage or espionage.

(2) Subject to article 135 of the 1992 Constitution, information created by or in the custody of the Ghana Armed Forces or the security and intelligence agencies established under the Security and Intelligence Agencies Act, 1996 (Act 526) which is likely to threaten the security of the State is exempt information.

Economic and any other interests

10. Information is exempt from disclosure prior to official publication where

- (a) the information contains trade secrets or financial, commercial, scientific or technical information that belongs to the State or public institution and the information has monetary or a potential monetary value;
- (b) the disclosure of the information can reasonably be expected to affect the integrity or stability of the financial system or, damage the financial interests of the State or public institution or the ability of the State to manage the national economy;
- (c) the disclosure of the information can reasonably be expected to cause a disruption of business or trade in the country;
- (d) the disclosure of the information can unduly benefit or be injurious to a person because it provides prior information about future economic or financial measures to be introduced by the Government or public institution;
- (e) the information contains criterion, procedure, position or instruction that relates to negotiations being carried on or to be carried on by or on behalf of the State or public institution, the disclosure of which shall be injurious to national security and economic development; or
- (f) the information contains questions or methodology to be used in an examination, recruitment or selection process and the release is likely to jeopardise the integrity of that examination, recruitment or selection process.

Economic information of third parties

11. (1) Information which would reveal a trade secret, research, scientific, technical, commercial, financial or labour related information supplied in confidence is exempt from disclosure if the disclosure of that information can reasonably be expected to

- (a) prejudice the competitive position of a person, a group of persons or an organisation;
- (b) adversely affect negotiations with a third party;
- (c) result in undue loss or gain to a person, a group, a financial institution or any other body; or
- (d) result in a public institution not being supplied with similar information where it is in the public interest that the similar information be supplied to the public institution.

(2) Information which has already been made available to the public by the appropriate person, authority or body is not exempt from disclosure under subsection (1).

Information relating to tax

12. (1) Information obtained from a tax return or gathered for the purposes of determining tax liability is exempt from disclosure.

(2) Exempt information under subsection (1), may be disclosed if the person to whom the information relates, agrees to the disclosure.

Internal working information of public institutions

13. (1) Information is exempt from disclosure where the disclosure of the information will reveal

(a) an opinion, or an advice given, or

(b) a recommendation, consultation or deliberation made to the public institution and is likely to undermine the deliberative process in that public institution.

(2) Information which

(a) merely contains material that has been publicly mentioned as the basis of a public policy or for formulating public policy, or

(b) contains only factual or statistical data,
is not exempt from disclosure.

Parliamentary privilege, fair trial, contempt of court

14. Information is exempt from disclosure if its disclosure can reasonably be expected to

(a) infringe or contravene a parliamentary privilege,

(b) prejudice the fair trial of a person or the impartial adjudication of a case before a court or a quasi-judicial body, or

(c) constitute contempt of court or of a quasi-judicial body.

Privileged information

15. (1) Information is exempt from disclosure where

(a) it is privileged on grounds of

(i) lawyer and client professional relationship,

(ii) communication between spouses whether married under an enactment or under the common law as defined in clause (2) of article 11 of the Constitution;
or

(iii) the Evidence Act, 1975 (N.R.C.D. 323); or

- (b) the disclosure of the information reveals confidential communication between a doctor and a patient or any other medical expert in connection with the medical diagnosis or treatment of the patient.

(2) Subsection (1) does not apply where the person entitled to the privilege knowingly waives the privilege.

Disclosure of personal matters

16. (1) Information, the disclosure of which is unreasonable concerning the personal affairs of an individual whether living or deceased is exempt from disclosure.

(2) Disclosure is unreasonable if it reveals or is likely to reveal information about the individual's

- (a) physical or mental health;
- (b) business or trade secrets of commercial value; or
- (c) confidential professional, commercial or financial affairs.

(3) Disclosure is reasonable if

- (a) the individual to whom the information relates gives prior consent;
- (b) the disclosure is required to promote public health or public safety;
- (c) the disclosure is necessary in order to subject government activities to public scrutiny;
- (d) the disclosure does not unjustifiably damage the reputation of any other person referred to in the information;
- (e) the disclosure is made to the individual to whom the information relates;
- (f) the disclosure does not contravene a provision on exempt information specified in this Act;
- (g) the disclosure would not have an adverse effect on the affairs of the individual;
- (h) the disclosure would not prejudice the future supply of information;
- (i) the information has already been made available to the public by the appropriate person, authority or body;

- (j) the individual to whom the information relates was informed or made aware prior to supplying the information or that the information belongs to a class of information that will or might be made available to the public;
- (k) in the case of a deceased person, the applicant is the next of kin or represents the next of kin or is the personal representative of the deceased; or
- (l) the disclosure is about the physical or mental health or well-being of the individual who is under the care of the applicant and who is
 - (i) under the age of eighteen years, or
 - (ii) incapable of understanding the nature of the request and giving access would be in the best interest of the individual.

Disclosure for the protection of public interest

17. (1) Despite a provision of this Act on information exempt from disclosure, information is not exempt from disclosure if the disclosure of the information reveals evidence of

- (a) a contravention of, or a failure to comply with a law;
- (b) an imminent and serious threat to public safety, public health or morals, the prevention of disorder or crime or the protection of the rights or freedoms of others;
- (c) a miscarriage of justice;
- (d) an abuse of authority or a neglect in the performance of an official function; or
- (e) any other matter of public interest

and the benefits of disclosure clearly outweigh the harm or danger that the disclosure will cause.

(2) A person who discloses information or authorises the disclosure of information under this section is not liable in criminal or civil proceedings for the disclosure or authorisation of the disclosure of information under this section.

Procedure for Access

Application to access information

18. (1) An application to access information held by a public institution shall

- (a) be made in writing to the public institution;

- (b) contain sufficient description or particulars to enable the information to be identified,
- (c) indicate the form and manner of access required,
- (d) state the capacity of the applicant to the satisfaction of the information officer to whom the application is made, if the application is made on behalf of another person,
- (e) state the name of the applicant, an address to which a communication or notice can be sent,
- (f) provide identification of the applicant; and
- (g) be signed by the applicant.

(2) Where an applicant is unable to make the application in writing due to illiteracy or a disability, the applicant may make the request orally.

(3) Where a request is made orally under subsection (2), the request shall be reduced into writing by the information officer to whom the application is made, who shall give a copy of the written request as recorded and as duly authenticated to the applicant.

(4) Where the applicant is illiterate, and the request has been reduced into writing, the information officer shall

- (a) clearly and correctly read and explain the written request to the understanding of the applicant in accordance with the Illiterates' Protection Act, 1912 (Cap 262);
- (b) ask a witness to endorse on the face of the request that "the request was read to the applicant in the language the applicant understands and the applicant appeared to have understood the content of the request"; and
- (c) ask the applicant to make a thumbprint or a mark on the request.

(5) Where an application does not sufficiently describe the information required, the public institution to which the application is made shall so inform the applicant and offer the applicant the necessary assistance to identify the information.

(6) Where a public institution receives an application for access, part of which is exempt, the information officer shall disclose to the applicant as much of the information as can reasonably be separated without disclosing the exempt part.

(7) For the purposes of this section, the reference to "writing" in subsection (3) includes electronic form and "Braille".

Person to deal with application

19. An application to access information shall be dealt with by the information officer of the public institution.

Transfer of application

20. (1) Where a public institution is unable to deal with an application because the information requested

(a) is not in the custody or control of the public institution, but to the knowledge of the public institution, it is held by another public institution, or

(b) is in the custody of the public institution but it is more closely related to the functions of another public institution,

the information officer shall, within two days of the receipt of the application,

(c) refer the applicant to the relevant public institution; or

(d) transfer the application to the relevant public institution and give written notice of the transfer to the applicant.

(2) Where a public institution receives a transfer of application under paragraph (b) of subsection (1), the public institution shall notify the applicant of the receipt of the application within three days after the receipt of the application.

(3) Where an application for access is made and the public institution to which the application is made does not have the information in its custody, the information officer shall, within a period of not more than ten days,

(a) make the necessary enquiry to establish whether any other public institution has the information, and

(b) transfer the application to that other public institution if that public institution has the information, and

(c) notify the applicant accordingly.

(4) A notice of transfer shall state,

(a) the date of the transfer,

(b) the public institution to which the transfer is made, and

(c) the reason for the transfer.

(5) An application transferred from one public institution to another is a request for access to information made to the public institution to which the application is transferred on the date the transfer is received.

Information readily available in official publication

21. Where a public institution receives an application for access to information which to the knowledge of the public institution is readily available in an official publication held by another public institution, the public institution shall

- (a) direct the application to that public institution having custody of the official publication containing the information sought; and
- (b) notify that public institution of the request by the applicant.

Deferred access

22. (1) A public institution may defer access to information if it is information

- (a) which is required to be published within ninety days from the date of receipt of the application or the transfer of the application, or
- (b) which has been prepared for submission to any person and is yet to be submitted.

(2) Where an application for access is deferred for any of the reasons stated in subsection (1), the information officer shall, within three days after the deferment notify the applicant in writing of

- (a) the reason for the deferment; and
- (b) the likely period of the deferment.

Decision on application

23. (1) Where an application for access is received by a public institution, the information officer shall take a decision on the application and send a written notice to the applicant within fourteen days from the date of receipt of the application.

(2) The notice shall state

- (a) whether or not access to the information will be given, and
- (b) whether access to only a part of the information can be given and the reason for giving only a part.

(3) Where the information officer decides to give access, the notice shall state

- (a) the form or manner in which the access will be given;
- (b) whether access is to only a part of the information because the other part is exempt information;

- (c) the day on which the public institution **expects the information** to be published or submitted, in the case of a deferred access under section 22; and
- (d) the prescribed fee for the **reproduction of information**.

(4) Where the information officer **decides to refuse access**, the notice shall state the reason for the refusal and the **provision under which** the decision for the refusal is based.

(5) Where an information officer **fails to determine an application** within fourteen days after the application is received by the public institution, the application is deemed to have been refused and the applicant has the right to seek redress under sections 31 to 39.

(6) Subsection (5) does not apply to an application which has been transferred to another public institution or which the public institution has refused to continue to process for failure to pay the prescribed deposit or fee.

(7) Where an application relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person, the information officer shall, within forty-eight hours,

- (a) determine whether or not to grant the application,
- (b) notify the applicant of the decision in writing, and
- (c) give the applicant access to the information where the application is granted.

(8) Despite subsection (7), where the information requested contains third party information, an applicant may not be granted access to that information until

- (a) the time that the right of a party to appeal against the release of the information has expired, or
- (b) an appeal lodged by the third party has been determined.

(9) Where upon the perusal of an application, it does not appear to the information officer that the information requested reasonably appears to be necessary to safeguard the life or liberty of a person, the information officer shall within forty-eight hours of receipt of the application

- (a) give notice of the decision and reasons for the decision to the applicant, and

- (b) inform the applicant that, subject to the right of the applicant to apply to the Commission, for a review, the information officer shall make a decision with respect to whether to grant access to the requested information within fourteen days.

(10) Where information sought by an application does not exist because a duty is not placed on a public institution by any law to hold or collect the information, or the information has been destroyed in accordance with law, the information officer shall give notice to the applicant stating the reasons.

Non-existent information

24. (1) Where reasonable and practical steps have been taken to find the information requested and there are reasonable grounds to believe that the information does not exist, the information officer shall, by a written declaration signed by that information officer, notify the applicant that it is not possible to give access for the stated reason.

(2) The notice shall state the steps taken to find the document or to determine its existence.

(3) A notice under this section is a refusal to give access to the information and the applicant may take the steps that are open to the applicant under sections 31 to 39.

Extension of time to deal with an application

25. (1) The head of the institution may extend the time provided for dealing with the application for a further period if

- (a) the application is for a large volume of information or necessitates a search through a large number of records and compliance with the original time limit would unreasonably interfere with the operations of the public institution,
- (b) the information requested has to be gathered from more than one source, or
- (c) consultations with a person outside the public institution are required and cannot reasonably be complied with within the time limit.

(2) The period of extension shall not exceed seven days from the date when a decision on the application should have been made.

(3) Where an extension of time is granted under this section, an information officer shall, within seven days of the receipt of the application, notify the applicant in writing stating,

- (a) the period of the extension,
- (b) the reason for the extension, and

- (c) the right of the applicant to lodge an application for a review under sections 31 to 39 within the prescribed period.

Refusal to process

26. (1) A public institution may refuse to continue to process an application where the applicant has not paid the prescribed processing fee for the reproduction of information within the period of time specified in the notice .

(2) A public institution that refuses to continue to process an application shall immediately notify the applicant in writing of the refusal.

(3) A refusal to continue to process an application under this section is subject to review and appeal under sections 31 to 39.

Refusal of access

27. (1) A public institution may refuse access to information if

- (a) the application is manifestly frivolous or vexatious; or
(b) the information is an exempt information.

(2) Where an information officer refuses to grant access to information for any of the reasons stated in subsection (1), the information officer shall notify the applicant in writing of the reason upon which the refusal is based.

Manner of access

28. (1) Access to information may be given to an applicant

- (a) by giving the applicant
(i) a reasonable opportunity to inspect the information,
or
(ii) a copy of the information,
(b) by making arrangements for the applicant to hear the sounds or view the visual images, in the case of information from which sounds or visual images are capable of being reproduced, whether or not with the aid of another device,
(c) by giving the applicant a written transcript of the words recorded in a document, in the case of information in which words are recorded in a manner in which they are capable of being reproduced in the form of sound,
(d) by giving the applicant a written transcript of the words in the case of information in which words are contained in the form of shorthand writing or in coded form,

- (e) by giving the applicant the written form, in the case of information in which words are recorded in a manner in which they are capable of being reproduced in a written form, or
 - (f) in any other form, electronic, magnetic, optical or otherwise, including a computer print-out, various computer storage devices and web portals.
- (2) Where a request for access to information has been made in a particular form, access to information
- (a) shall be given in that form, or
 - (b) may be refused if
 - (i) it is likely to be detrimental to the preservation of the information; or
 - (ii) having regard to the physical nature of the information, it is not appropriate to grant access in that form.
- (3) Where access cannot be given in the form specified by the applicant but can be given in some other form,
- (a) access shall be given in that other form; and
 - (b) the applicant shall be provided with a reason why access cannot be given in the specified form.
- (4) For the purposes of subsection (3), the applicant shall not be required to pay a fee which is greater than the fee that the applicant would have paid had access been given in the form requested.

Amendment of Personal Records in Custody of a Public Institution

Amendment of personal records

29. A person given access to information contained in the records of a public institution may apply for an amendment of the information if

- (a) the information represents the personal records of that person, and
- (b) in the opinion of that person, the information is incorrect, misleading, incomplete or out of date.

Application for amendment of information

30. (1) An application for the amendment of information contained in the records of a public institution shall

- (a) be in writing,
- (b) indicate name and proof of identity,

- (c) contain particulars which will enable the records of the public institution, to which the applicant has been given access, to be identified,
- (d) specify the area in which the applicant claims the information contained in the records is incorrect, misleading, incomplete or out of date, and
- (e) be signed by the applicant.

(2) Where the applicant claims that the information contained in the records is incomplete or out of date, the application shall be accompanied with the relevant information which the applicant considers necessary to complete the records of the public institution or bring them up to date.

(3) An application shall indicate an address to which a notice under this Act should be sent and the application shall be submitted at the office of the public institution.

Internal Reviews and Appeals

Right to internal review

31. Except as otherwise provided in this Act, a person aggrieved by a decision of the information officer of a public institution may submit an application for internal review of that decision to the head of the public institution.

Application for internal review

32. (1) An application for internal review shall be made within thirty days of the receipt of the decision of an information officer.

(2) An application for internal review

- (a) may be in writing;
- (b) may be made orally;
- (c) shall be addressed to the head of the public institution; and
- (d) shall state the request and the decision of the information officer which is the subject of the application for internal review.

(3) Where an applicant makes a request for internal review, the information officer shall put the oral request into writing and provide a copy of the written request to the applicant.

(4) Where the applicant is illiterate, and the request has been reduced into writing, the information officer shall

- (a) clearly and correctly read and explain the request to the understanding of the applicant in accordance with the Illiterates' Protection Act, 1912 (CAP 262);
- (b) cause a witness to endorse on the face of the request that "the request was read to the applicant in the language the applicant understands and the applicant appeared to have understood the content of the request"; and
- (c) require the applicant to make a thumbprint or a mark on the request.

(5) Where a request for internal review referred to in subsection (1) is lodged after the expiry of thirty days, the information officer may, upon good cause shown, allow the late lodging of the request.

(6) On the receipt of a request for internal review, the information officer shall, as soon as practicable, but in any event within five days after receipt of the request,

- (a) submit to the head of the public institution
 - (i) the request for internal review;
 - (ii) the reasons of the information officer for the decision; and
 - (iii) the application that is the subject of the review; and
- (b) notify the applicant and other interested persons in writing of the submission of the records to the head of the public institution.

Decision on internal review

33. (1) The head of the public institution to whom a request for internal review is made shall, as soon as reasonably practicable, but in any event within fifteen days of receipt of the request

- (a) make a decision; and
- (b) notify the applicant of that decision in writing.

(2) Where the head of the public institution determines that access should be granted, the notice referred to in subsection (1) shall state

- (a) the fee payable; and
- (b) the form in which access will be given.

(3) Subject to subsection (4), where the applicant has been notified that access to the information has been granted, that applicant shall, upon payment of the prescribed fee or where no fee is payable, be given access to the information.

(4) Where the head of the public institution decides to release information that contains third party information, the applicant shall not be granted access to that information unless

- (a) the third party has been notified of the request and has consented to the release of the information; or
- (b) any appeal lodged against the release of the information by the applicant has been determined.

(5) Where the head of the public institution decides to release the information despite the disapproval of the third party, the head of the public institution shall inform the third party in writing.

(6) Where the head of the public institution refuses access to the information, the head of the public institution shall notify the applicant in writing.

(7) The notice to the applicant shall

- (a) state the reason for the refusal based on the
 - (i) contents of the request; and
 - (ii) the information considered by the head of the public institution;
- (b) contain a reference to the specific provision of this Act relied on; and
- (c) inform the applicant of the right to apply to the Commission for a review of the decision in accordance with section 65 and the process of lodging that appeal.

Notice to third parties

34. (1) Where the head of a public institution receives a notice from the Commission of a hearing or an investigation pending before the Commission, the head of the public institution shall inform the Commission of all third parties to whom the information relates.

(2) Subject to subsection (3), the Commission shall issue the directions that are necessary to ensure, to the extent reasonably possible that, third parties whose matters are before the Commission are notified of hearings or investigations.

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

Affirmation of decision

35. Where the head of the public institution fails to give a decision on a request for internal review within fifteen days, the head of that public institution is deemed to have affirmed the original decision of the information officer.

Application to High Court for judicial review

36. (1) Where an applicant is refused access to information by a public institution

- (a) because the disclosure will be
 - (i) prejudicial to the security of the State, or
 - (ii) injurious to the public interest, or
- (b) for any other reason,

the applicant may apply to the High Court for a judicial review of the decision.

(2) The application for judicial review shall be lodged within twenty-one days after refusal of the application.

Powers of the High Court

37. (1) In addition to its powers under the Constitution, the High Court may, in respect of an application for judicial review under section 36,

- (a) require the relevant information under the control of the public institution to be produced before it for examination and scrutiny,
- (b) enter and inspect premises occupied by the public institution concerned in the judicial review,
- (c) require to see original documents, and
- (d) summon and examine on oath a person who the High Court considers may have information relevant to the judicial review.

(2) The proceedings of the High Court shall be held *in camera* and the High Court may prohibit the publication of information relating to the proceedings.

(3) The High Court shall not, in the course of a review, disclose to a party other than the representative of the public institution and the Attorney-General, information which is exempt from disclosure under this Act.

Ruling of the High Court

38. (1) The High Court may, after hearing the application and presentations made before it, make an appropriate order.

(2) Where the High Court orders that the applicant be given access to information, the High Court shall specify the period within which the access shall be given.

Appearance before the Commission

39. A person who applies for access to information, the public institution concerned and a person affected by any proceedings under this Act whether before a Minister or a Court, may

- (a) be represented by a lawyer; or
- (b) call an expert witness.

*Establishment of the Right to Information Commission***Establishment of the Commission**

40. (1) There is established by this Act a body corporate to be known as the Right to Information Commission.

(2) For the performance of its functions, the Commission may acquire and hold movable and immovable property, dispose of property and enter into a contract or any other related transaction.

(3) Where there is hindrance to the acquisition of immovable property, the property may be acquired for the Commission under the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Commission.

Object of the Commission

41. The object of the Commission is to

- (a) promote,
- (b) monitor,
- (c) protect, and
- (d) enforce

the right to information that is granted to a person under paragraph (f) of clause (1) of article 21 of the Constitution and the provisions of this Act.

Independence of the Commission

42. (1) Subject to the Constitution, the Commission shall be independent in the performance of the functions of the Commission.

(2) The Commission shall not be subject to the direction or control of any person or authority in the performance of the functions of the Commission.

(3) The Commission shall through the Minister responsible for Finance, submit the budget of the Commission to Parliament for approval annually.

Powers of the Commission

43. (1) The Commission may determine the nature, process and undertakings necessary for the effective performance of its functions under this Act.

- (2) The Commission shall have the power to
- (a) resolve complaints through negotiation, conciliation, mediation or arbitration;
 - (b) determine the need for the nature and form of investigation required for the determination of a matter before the Commission;
 - (c) make any determination as the Commission considers just and equitable including issuing recommendations or penalties in matters before the Commission;
 - (d) dismiss an application for access to information if it considers the application to be frivolous or vexatious;
 - (e) dismiss a complaint relating to an application for access to information by an applicant where the applicant has failed to comply with a provision of this Act;
 - (f) require the production of information to which access has been refused on the basis of an exemption for the purpose of deciding whether it is an information exempt from disclosure;
 - (g) limit access to information by parties in terms of this Act;
 - (h) determine and issue general directions for the hearing of a matter including notice to parties;
 - (i) issue specific directions where sensitive matters relating to the State are concerned;
 - (j) issue specific directions in matters concerning confidential information, minors, or circumstances which the Commission considers appropriate for that action;
 - (k) decide on relating to the need for and the form of, issuing and serving of notices and communications;
 - (l) decide on issues of representation where necessary; and
 - (m) consider the needs of persons who wish to make protected disclosures, minors and vulnerable groups.

Functions of the Commission

44. To achieve its object, the Commission shall

- (a) issue written orders requesting for the production of information;
- (b) examine, reproduce, take extracts from or hold information for unlimited periods, including information found in any premises entered pursuant to an inspection conducted by the Commission in the performance of the monitoring function of the Commission;
- (c) take appropriate action that is necessary to enable the Commission resolve a complaint before it;
- (d) conduct matters with as little technicality or formality and as expeditiously as possible;
- (e) hold hearings in public unless it is considered inappropriate to do so;
- (f) publish its findings, recommendations, orders, decisions and directives quarterly; and
- (g) undertake any other action that the Commission considers necessary for the effective performance of its functions.

Promotion of right to information

45. (1) The Commission shall

- (a) promote and sustain awareness within the country, and
- (b) in collaboration with other State institutions educate the public on the right to information.

(2) In promoting awareness of the right to information, the Commission shall

- (a) assess all implementation plans required to be submitted by public institutions to the Commission to ensure public institutions have clear obligations and processes which support awareness raising and education interventions at community level including disadvantaged groups;
- (b) consult and collaborate with civil society organisations and interest groups;
- (c) provide recommendations and guidelines to a public institution for internal training of personnel, and provide training on request;
- (d) monitor internal training of staff within public institutions and issue notices for mandatory training where necessary;

- (e) assist an applicant and public institution on matters of interpretation of the Act;
- (f) develop the material that it considers necessary to advance promotion of access to information; and
- (g) make public and widely disseminate its annual report.

Research and law reform

46. (1) The Commission may conduct or cause to be conducted any research it considers necessary or appropriate for the attainment of the objects of this Act.

(2) The Commission shall in its annual report to Parliament include a report covering reports of recommendations for any research and reform undertaken by the Commission.

Monitoring powers of the Commission

47. (1) A public institution or a relevant private body shall provide the reports that are required under this Act to the Commission.

(2) The Commission shall

- (a) monitor compliance by a public institution or a relevant private body with this Act;
- (b) give reasonable notice to a public institution or a relevant private body before taking an action under subsection (4);
- (c) issue directives to a public institution or a relevant private body;
- (d) monitor implementation of its directives; and
- (e) following public consultation, develop and publicise guidelines which detail the reporting requirements that apply to a public institution or a relevant private body.

(3) The reporting requirements referred to in paragraph (e) of subsection (2) include the manner, means and time frames that apply to a public institution or a relevant private body.

(4) The Commission may, in the performance of its monitoring function,

- (a) conduct an inspection;
- (b) undertake an investigation that the Commission considers appropriate in furtherance of the inspection;
- (c) engage a public institution or a relevant private body;
- (d) request a public institution or a relevant private body to provide to the Commission information to facilitate and enhance its monitoring activities;

(e) issue an order compelling the provision of further information; and

(f) access any information to undertake the monitoring.

(5) Where a public institution or a relevant private body fails to comply with the notice issued by the Commission in paragraph (b) of subsection (2), the Commission may impose an administrative penalty that the Commission considers necessary.

Governing body of the Commission

48. (1) The governing body of the Commission is a Board consisting of

(a) a chairperson;

(b) one deputy chairperson;

(c) four other persons, two of whom are women; and

(d) the Executive Secretary.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The President shall, in appointing a member of the Board, have regard to the expertise of the person.

(4) The Board shall ensure the proper and effective performance of the functions of the Commission.

(5) The members of the Board shall take and subscribe to the Official Oath and Oath of Secrecy specified in the Schedule.

Tenure of office of members of the Board of the Commission

49. (1) A member of the Board shall hold office for five years and is eligible for re-appointment for another term only.

(2) A member of the Board may, at any time, by notice in writing to the President resign from office.

(3) The Commission shall notify the President of vacancies which occur in the membership of the Board within two months of the occurrence of the vacancy.

(4) The President may, by a letter addressed to a member of the Board, terminate the appointment of that member where that member

(a) is mentally or physically incapable of performing the functions and duties of the office;

- (b) is declared insolvent;
- (c) has engaged in gross misconduct or has been involved in actions that bring the Commission into disrepute;
- (d) is convicted of a serious offence; or
- (e) is grossly incompetent.

(5) **The President** shall not terminate the appointment of a member of the Board **unless** the President has caused to be investigated an allegation **made against** that member and the allegation has been proven.

Meetings of the Board

50. (1) The Board shall meet at least once every three months for the despatch of **business** at the time and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than five members of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is five members.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, the deputy chairperson shall preside and in the absence of the deputy chairperson, a member of the Board elected by the members present from among their number shall preside.

Disclosure of interest

51. (1) A member of the Board who has an interest in a matter for consideration shall

- (a) disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and
- (b) not participate in the deliberations of the Board in respect of the matter.

(2) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and fails to

- (a) disclose that interest; or
- (b) recuse that member's self from the deliberations on the matter.

Establishment of committees

52. (1) The Board may, establish committees consisting of members of the Board or non-members or both to perform a function of the Board.

(2) A committee may be chaired by a member of the Board.

(3) The Board may assign to a committee a function determined by the Board but a committee composed of non-members is advisory only.

(4) Section 51 applies to members of the committee.

Allowances

53. Members of the Board and members of a committee of the Board shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

Limitation on outside work

54. A member of the Board shall not, while in office, occupy any office of profit or engage in any partisan political activity.

*Administrative and Financial Provisions***Appointment of Executive Secretary**

55. (1) The Commission shall have an Executive Secretary.

(2) The President shall, in accordance with article 195 of the Constitution appoint the Executive Secretary for the Commission.

(3) The Executive Secretary shall hold office on the terms and conditions specified in the letter of appointment.

Functions of the Executive Secretary

56. (1) The Executive Secretary

(a) is responsible for the day to day administration of the Commission and is answerable to the Board in the performance of the functions under the Act; and

(b) shall perform any other function determined by the Board.

(2) The Executive Secretary may delegate a function to an officer of the Commission but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

Appointment of other staff

57. The President may, in accordance with article 195 of the Constitution, appoint officers and other employees that are necessary for the effective implementation of the functions of the Commission.

Secretary to the Board

58. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Secretary to the Board.

(2) The Secretary shall perform the functions directed by the Executive Secretary or the Board.

(3) The Secretary is, in the performance of functions, answerable to the Executive Secretary and the Board.

Engagement of expert

59. The Commission may engage the services of an expert for the purpose of exercising a power, duty or function under this Act.

Funds of the Commission

60. The funds of the Commission include

- (a) moneys approved by Parliament;
- (b) administrative penalties imposed by the Commission; and
- (c) donations, gifts and grants.

Bank account

61. The moneys for the Commission shall be paid into a bank account opened for that purpose with the approval of the Controller and Accountant-General.

Expenses of the Commission

62. The expenses of the Commission shall be paid from moneys provided for the Commission under section 60.

Accounts and audit

63. (1) The Commission shall keep the books, records, returns and other documents relating to the accounts of the Commission in the form approved by the Auditor-General.

(2) The Commission shall submit the accounts of the Commission to the Auditor-General for audit within six months after the end of the financial year.

(3) The Auditor-General shall, not later than six months, after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Commission and the Board.

(4) The financial year of the Commission shall be the same as the financial year of the Government.

Annual report and other reports

64. (1) The Commission shall within thirty days after the receipt of the audit report submit to the Minister an annual report covering the activities and the operations of the Commission for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the annual report to Parliament with a statement that the Minister considers necessary.

(4) The Commission shall also submit to the Minister any other report which the Minister may require in writing.

Application for Review by the Commission

Application for review

65. (1) A person who is dissatisfied with a decision of a public institution or a relevant private body, may apply to the Commission for a review of the decision.

(2) An application to the Commission may be made orally or in writing.

(3) Where an application is made orally, the Commission, shall reduce the oral application into writing and provide a copy of the written record to the applicant.

(4) Where the applicant is illiterate and the application has been reduced into writing, the information officer at the commission shall

- (a) clearly and correctly read and explain the request to the understanding of the applicant in accordance with the Illiterates' Protection Act, 1912 (Cap 262);
- (b) cause a witness to endorse on the face of the request that "the request was read to the applicant in the language the applicant understands and the applicant appeared to have understood the content of the request" and
- (c) ask the applicant to make a thumbprint or mark on the request.

Exhaustion of internal review procedure

66. Subject to subsections (1) and (2) of section 65, an application to

- (a) the Commission for a review of the decision of a public institution shall only be made to the Commission after the applicant has exhausted all rights of internal review offered by the public institution or relevant private body, or
- (b) the High Court for a review of the decision of a public institution shall only be made after the applicant has exhausted all rights of review by the Commission.

Direct access

67. (1) Despite section 66, a person may make an application to the Commission without exhausting the internal review procedure under this Act where

- (a) the information requested is the personal information of the applicant and the initial request to a public institution or a relevant private body has been refused;
- (b) the information requested was previously in the public domain;
- (c) the head of the public institution or the relevant private body is the information officer of that institution or body; or
- (d) the request for information is time bound.

(2) An applicant who requests access to information which is reasonably believed to be necessary to safeguard the life or liberty of a person may apply directly to the Commission for a review of the decision if that person

- (a) is refused access to the information; or
- (b) receives no notice of the decision of the public institution or the relevant private body within forty-eight hours of the request.

(3) Where the Commission receives an application under subsection (2), the Commission may on an assessment of the facts

- (a) determine the matter summarily; or
- (b) remit the application to the information officer to undertake further investigation before making a determination.

(4) A staff member or a public institution or a relevant private body, who wishes to report a wrongdoing under this Act, may contact the Commission without exhausting any applicable internal procedures.

Right to make representations

68. (1) In a matter before the Commission, reasonable opportunity shall be given to

- (a) the applicant;
- (b) the head of the public institution or relevant private body concerned; and
- (c) a third party, if the information requested contains third party information and the third party can be reasonably located.

(2) The Commission shall uphold the right of the public to be present during a hearing except when, in the view of the Commission, the circumstances dictate that the hearing should be held in camera.

- (3) With respect to any matter before it, the Commission may
- (a) summon witnesses, heads of organs of State, or any person where necessary;
 - (b) allow an interested party on application to join proceedings;
 - (c) provide assistance to an applicant where appropriate;
 - (d) allow a relevant person to participate in hearings through any medium that person chooses; or
 - (e) administer oath and receive any evidence that it considers necessary under oath or on affidavit.
- (4) The Commission shall have the power, rights and privileges of the High Court or a Justice of the High Court at a trial for
- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
 - (b) compelling the production of documents; and
 - (c) issuing a commission or request to examine witnesses abroad.

Notices and communications

69. (1) The Commission shall serve notice on all relevant parties of
- (a) its findings on
 - (i) an investigation, or
 - (ii) monitoring,
 - (b) its summary findings,
 - (c) an application,
 - (d) a decision on a hearing, or
 - (e) a referral to an appropriate Court, including a right of appeal.
- (2) Where in the view of the Commission, service of the notice of the finding will cause prejudice as a result of the sensitive nature of the exempt information, the Commission shall amend the finding in the appropriate manner.
- (3) The Commission may decide to dispense with notification where giving notice may
- (a) prejudice the conduct of an investigation of a breach or possible breach of the law;
 - (b) prejudice the enforcement or administration of the law;
 - (c) endanger the life or physical safety of a person;
 - (d) cause substantial prejudice to the commercial interests of a private individual or a private business; or
 - (e) impair relations between Ghana and other States.

Duty to assist Commission

70. A public institution, a relevant private body or an interested party shall assist the Commission in the course of an application or investigation.

Orders, Decisions and Directives of the Commission

Orders, decisions and directives

71. (1) The Commission shall issue binding orders or make recommendations on a matter before the Commission.

(2) A decision of the Commission may include

- (a) an affirmation of the decision of the information holder;
- (b) a variation of the type of access originally granted or requested;
- (c) setting aside the decision of the public institution or relevant private body;
- (d) making a ruling;
- (e) requiring the public institution or relevant private body to take the steps that are necessary to ensure that the public institution or relevant private body has complied with the obligations under this Act;
- (f) imposition of an administrative penalty against the public institution or relevant private body where the public institution or relevant private body fails to comply with an obligation under this Act;
- (g) mandating negotiation, conciliation and arbitration for the purpose of the resolution of a complaint; or
- (h) any other summary order it considers just and equitable.

(3) The Commission shall

- (a) produce a statement of facts, findings and reasoning for decisions on matters before it, and
- (b) make a copy of the statement, findings and reasoning available to parties to the matter free of charge.

(4) The Commission may issue directives that the Commission considers necessary for the enforcement of its decisions.

*General and Miscellaneous Provisions***Burden of proof**

72. (1) Subject to subsection (3), the public institution or relevant private body shall bear the burden of proof.

(2) Where the public institution or relevant private body refuses to grant access to information, that public institution or relevant private body shall be required to prove that

- (a) the information requested is exempt from disclosure under this Act; and
- (b) more harm would be caused by the release of the information to the applicant over and above the public interest in the release of the information.

(3) The applicant bears the burden of proof where

- (a) a request to a relevant private body is refused on the basis that the information requested does not assist in the exercise or protection of a right; or
- (b) the applicant asserts that
 - (i) the reproduction fee is not payable on the basis that the information requested is in the public interest; or
 - (ii) the applicant is indigent.

Information officers

73. For the purposes of this Act, an information officer of a public institution or an officer designated as an information officer shall perform the functions assigned to an information officer under this Act.

Immunities

74. (1) An information officer is not liable to any action, claim, suit or demand whether criminal or civil for an omission or action taken by that information officer who, in the course of duty provides information to an applicant or in compliance with the provisions of this Act.

(2) The giving of information under this Act or the making of a decision to give information does not constitute, for the purposes of the law relating to defamation or breach of confidence, an authorisation or approval of the publication of the information by the person to whom information is given.

Fees and charges of public institution

75. (1) An applicant seeking access to information under this Act shall pay the fee or charge approved by Parliament in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2009 (Act 793).

- (2) Despite subsection (1), a fee or charge shall not be payable for
 - (a) the reproduction of personal information of the applicant;
 - (b) the reproduction of personal information of a person on whose behalf an application is made;
 - (c) the reproduction of information which is in the public interest;
 - (d) information that should have been provided within the stipulated time under this Act;
 - (e) information to an applicant who is indigent;
 - (f) information to a person with disability;
 - (g) time spent by an information officer or information reviewing officer in reviewing the information requested;
 - (h) time spent by an information officer or information reviewing officer in examining whether the information requested is exempt information; or
 - (i) preparing the information for which access is to be provided.

(3) Where a request is made for information to be provided in a language other than the language in which the information is held, the information officer may request the applicant to pay the reasonable costs for translating the information into the language requested by the applicant.

(4) Where a request is made for a written transcript of the information held by a public institution, the information officer may request the applicant to pay the reasonable cost of the transcription.

(5) Where a request is made for information to be provided in a medium or format in which the information is held, the information officer may request the applicant to pay the reasonable cost of media conversion or reformatting.

Retention of charges

76. (1) Subject to the Constitution, a public institution is authorised to retain charges received by that public institution under this Act.

(2) The charges retained by the public institution under subsection (1), shall

- (a) only be used to defray expenses incurred by the public institution in the performance of functions under this Act; and

- (b) be paid into a bank account opened for the purpose with the approval of the Controller and Accountant-General.

Annual reports by public institutions

77. (1) A public institution shall, within sixty days after the 31st of December each year, submit a written report on the activities of the public institution under this Act during the preceding year to the Commission.

(2) The report shall include

- (a) the number of applications for information during the reporting period;
- (b) the number of applications approved and the number rejected together with the reasons for the rejection;
- (c) the number of reviews requested, the number granted and the number dismissed together with reasons; and
- (d) the number of applications to the Court for judicial review and the results of the reviews, if any.

(3) The Minister may in writing request for any other information which the Minister considers necessary for the purposes of submitting a comprehensive report to Parliament.

(4) The Minister shall by the 30th of June each year, lay before Parliament, an annual report on the activities of public institutions and the Commission in respect of the preceding year based on the annual reports of the public institutions.

Limitation of period for information exempt from disclosure

78. (1) Information classified as exempt information under sections 5 to 16 ceases to be exempt information on the expiry of thirty years calculated from the end of the calendar year in which the information came into existence.

(2) On the expiry of the period specified in subsection (1), a person may seek access to the information and the public institution which has custody of the information shall give access in accordance with the procedure established under this Act, except that where disclosure of the information will endanger the life or physical safety of an individual, public safety, national security, national economic interest and international relations with any other country the information shall not be disclosed.

Information held by the national archives, museums and libraries

79. This Act does not apply to information held by the national archives, libraries and museums to which the public have access.

Application of Act to existing and future information

80. This Act applies to information which came into existence before, or comes into existence after, the commencement of this Act.

Offence of disclosure of exempt information

81. A person who wilfully discloses information which is exempt from disclosure under this Act commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not less than six months and not more than three years or to both.

Other offences

82. (1) A failure or neglect by an information officer or other public officer to perform a function authorised by this Act where the occasion arises to perform that function constitutes a gross misconduct.

(2) A person who

(a) seeks or gains access to the personal record of another person under false pretences,

(b) wilfully makes a false statement

(i) to mislead any other person in order to gain access, or

(ii) to gain access to information, or

(c) with intent to deny right to information,

(i) destroys, damages, alters or conceals a document, or

(ii) makes a false entry in a document,

commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not less than one year and not more than three years or to both the fine and the term of imprisonment.

Regulations

83. (1) The Minister may, in consultation with the Board, by legislative instrument, make Regulations

(a) making it obligatory for public institutions and private organisations to maintain their records in good and accessible condition in order to facilitate access to information;

- (b) for further procedures for access to information under this Act; and
- (c) to provide for matters that are necessary to give full effect to this Act.

(2) The Minister may, in consultation with the Board, by legislative instrument, extend the application of this Act to the private sector.

(3) The legislative instrument made under subsection (1) shall specify

- (a) the provision of the Act which shall apply to the private sector;
- (b) the type of information to which access should be given; and
- (c) the exemptions which shall apply to the private sector as they apply in the public sector.

Interpretation

84. In this Act, unless the context otherwise requires,

“access” means right to information;

“access to information” means the right to obtain information from a public institution;

“Attorney-General” means the Attorney-General appointed under article 88 of the Constitution;

“Commission” means the Right to Information Commission established under section 40 of this Act;

“contact details” means the information by which an applicant and an information officer may be contacted for the purposes of obtaining or providing access to information under this Act;

“contractor” means a person who has agreed to provide goods or services to another person under a set of agreed terms with that other person;

“Court” means a court of competent jurisdiction;

“designated officer” means an officer so designated for the purposes of this Act;

“exempt information” means information which falls within any of the exemptions specified in sections 5 to 16;

“function” includes powers and duties;

“Government” means any authority by which the executive authority of the Republic of Ghana is duly exercised;

“information” includes recorded matter or material,

- (a) regardless of form or medium,
- (b) in the possession or under the control or custody of a public institution, and
- (c) whether or not it was created or made by a public institution and, in the case of a private body, relates to the performance of a public function;

“information officer” includes the information officer of the public institution or the officer designated as an information officer to whom an application is made;

“international organisation” includes an organisation of States or Government of States or an organ of that organisation;

“Minister” means the Minister responsible for Information;

“public institution” includes a private institution or a private organisation that receives public resources or provides a public function;

“relevant private body” means a private body that the Minister may by legislative instrument add to the list of private bodies performing a public function;

“right to information” means the right assigned to access information;

“State secret” includes information considered confidential by the Government which if disclosed would be prejudicial to the security of the State or injurious to the public interest; and

“trade secret” means a secret formula or technique, process, programme, device or product known and used to the advantage of only one manufacturer and the disclosure of which would cause significant economic loss to the owner or manufacturer.

Application to and modification of existing enactments

85. Where an enactment in existence immediately before the coming into force of this Act, provides for the disclosure of information by a person or an authority, the disclosure of the information is subject to this Act.

Commencement

86. This Act shall come into force at the commencement of the next financial year.

SCHEDULE

PART A
OFFICIAL OATH
((Section 48(5))

I,do (in the name of the Almighty God (swear) (solemnly affirm) that I will at all times well and truly serve the Republic of Ghana in the office of and that I will uphold, preserve, protect and defend the Constitution of the Republic of Ghana as by law established (So help me God).

OATH OF SECRECY
PART B
((Section 48(5))

I..... holding the office of do (in the name of the Almighty God swear/ solemnly affirm) that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall come to my knowledge in the discharge of my official duties except as may be required for the discharge of my official duties or as may be specially permitted by law. (So help me God).

(To be sworn before the President or such other person as the President may designate).

Date of *Gazette* notification: 24th May, 2019