



I assent,

SAMUEL WEYMOUTH TAPLEY SEATON

Governor-General

23rd May, 2018.

SAINT CHRISTOPHER AND NEVIS

AN ACT to make provision for the disclosure of information held by public bodies or by persons providing services for them and for connected purposes.

[Published 7th June 2017, Official Gazette No. 31 of 2018.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:

PART 1 PRELIMINARY

1. Short title and commencement.

(1) This Act may be cited as the Freedom of Information Act, 2018.

(2) This Act shall come into force on a day to be fixed by the Minister by Order published in the *Gazette*.

2. Interpretation.

In this Act

.....“Commissioner” means the Information Commissioner, appointed pursuant to Part 5;

“information” means documents, records, data, maps, photographs or any other information recorded in any form;

“information officer” means a person appointed as an information officer pursuant to section 17(1);

“Minister” means the Minister responsible for justice;

“official” means any person employed by the relevant public body, whether permanently or temporarily and whether part-time or full-time;

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“person” includes a body corporate or an unincorporated body;

“personal information” means information which relates to a natural living person who can be identified from that information; and

“public body” has the meaning given to it pursuant to section 7(1) and (2);

“publish” means make available in a form generally accessible to members of the public and includes print, broadcast and electronic forms of dissemination;

“record” has the meaning given to it pursuant to section 8;

“vexatious”, in relation to a request for information, refers to a request which is unreasonable and made mainly to cause frustration or annoyance.

3. Act binds the Crown

This Act shall bind the Crown.

PART 2

THE RIGHT TO ACCESS INFORMATION HELD BY PUBLIC BODIES

4. Freedom of Information.

Every person shall have the right to freedom of information, including the right to access information held by public bodies, subject to the provisions of this Act.

5. General right of access.

A person making a request for information to a public body shall be entitled:

- (a) to be informed whether or not the public body holds a record containing that information or from which that information may be derived; and
- (b) if the public body does hold such a record, to have that information communicated to him or her.

6. Legislation prohibiting or restricting disclosure.

(1) This Act applies to the exclusion of provisions in the Banking Act, No. 1 of 2015, Electronic Transactions Act, Cap. 4.41, Confidential Relationships Act, Cap. 21.02 or any other legislation, that prohibit or restrict the disclosure of a record by a public body.

(2) Nothing in this Act limits or otherwise restricts the disclosure of information pursuant to any other legislation, policy or practice.

7. Public bodies.

(1) For the purposes of this Act, a public body includes anybody:

- (a) established by or under the Constitution;
- (b) established by Statute;
- (c) which forms part of any level or branch of Government;
- (d) owned, controlled or substantially financed by funds provided by Government or the State; or

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(e) carrying out a statutory or public function;

provided that the bodies referred to in paragraph (e) are public bodies only to the extent of their statutory or public functions.

(2) The Minister may by Order published in the *Gazette* designate as a public body anybody that carries out a public function.

8. Records.

(1) For purposes of this Act, a record includes any recorded information, regardless of its form, source, date of creation, or official status, whether or not it was created by the body that holds it and whether or not it is classified.

(2) For purposes of this Act, a public body holds a record if—

- (a) the public body holds the record, other than on behalf of another person; or
- (b) another person holds the record, on behalf of the public body.

9. Request for information.

(1) For purposes of section 5, a request for information is a request in writing to any official of a public body that is in sufficient detail to enable an experienced official to identify, with reasonable effort, whether or not the body holds a record with that information.

(2) Where a request for information made pursuant to section 5(1) does not comply with the provisions of subsection (1), the official who receives the request shall, subject to subsection (5), render such reasonable assistance, free of charge, as may be necessary to enable the request to comply with subsection (1).

(3) A person who is unable, because of illiteracy or disability, to make a written request for information pursuant to section 5(1) may make an oral request, and the official who receives an oral request shall, subject to sub-section (5), reduce it to writing, including their name and position within the body, and give a copy thereof to the person who made the request.

(4) A request for information pursuant to section 5(2) must identify the right the person making the request is seeking to exercise or protect and the reasons why the information is required to exercise or protect that right.

(5) An official who receives a request for information may transfer that request to the information officer for purposes of complying with subsection (2) or (3).

(6) A public body may prescribe a form for requests for information, provided that such forms do not unreasonably delay requests or place an undue burden upon those making requests.

(7) A public body which receives a request for information shall provide the person making the request with a receipt documenting the request.

10. Time limits for responding to request.

(1) Subject to subsections (2) and (3), a public body must respond to a request for information pursuant to section 5 as soon as is reasonably possible and in any event within thirty working days of receipt of the request.

(2) Where a request for information relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person, a response must be provided within seven days.

(3) A public body may, by notice in writing within the initial twenty day period, extend the period in subsection (1) to the extent necessary, and in any case to not more than forty working days, where the request is for a large number of records or requires a search through a large number of records, and where compliance within twenty working days would unreasonably interfere with the activities of the public body.

(4) Failure to comply with this section shall be deemed to be a refusal of the request.

11. Notice of response.

(1) A response made pursuant to section 10 to a request for information pursuant to section 5(1) must be by notice in writing and state:

- (a) the applicable fee, if any, pursuant to section 12, in relation to any part of the request which is granted, and the form in which the information will be communicated;
- (b) adequate reasons for the refusal in relation to any part of the request which is not granted subject to Part 4 of this Act;
- (c) where there has been a refusal to indicate whether or not the public body holds a record containing the relevant information, the fact of such refusal and adequate reasons for it; and
- (d) any right of appeal the person who made the request may have.

(2) A response made pursuant to section 10 to a request for information pursuant to section 5(2) must be by notice in writing and state

- (a) in relation to any part of the request which is granted, the applicable fee, if any, pursuant to section 12, and the form in which the information will be communicated; and
- (b) in relation to any part of the request which is not granted, adequate reasons for the refusal.

(3) In relation to any part of a request that is granted, communication of the information must take place forthwith, subject to section 12.

12. Fees.

(1) The communication of information made pursuant to a request under section 5 by a public body may, subject to subsections (2) and (3), be made conditional upon payment by the person making the request of a reasonable fee, which shall not exceed the actual cost of searching for, preparing and communicating the information.

(2) Payment of a fee shall not be required for requests for personal information, and

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requests in the public interest.

(3) The Minister may, after consultation with the Commissioner, make Regulations providing—

- (a) for the manner in which fees are to be calculated;
- (b) that no fee is to be charged in cases specified in the Regulations; and
- (c) that any fee cannot exceed a certain maximum.

(4) A public body shall not require payment of a fee pursuant to subsection (1) where the cost of collecting that fee would exceed the amount of the fee.

13. Means of communicating information.

(1) Where a request indicates a preference as to the form of communication of information contained in subsection (2), a public body communicating information pursuant to a request for information under section 5 shall, subject to subsection (3), do so in accordance with that preference.

(2) A request may indicate the following preferences as to the form of communication of information

- (a) a true copy of the record in permanent or other form;
- (b) an opportunity to inspect the record, where necessary using equipment normally available to the body;
- (c) an opportunity to copy the record, using his or her own equipment;
- (d) a written transcript of the words contained in a sound or visual form;
- (e) a transcript of the content of a record, in print, sound or visual form, where such transcript is capable of being produced using equipment normally available to the body; or
- (f) a transcript of the record from shorthand or other codified form.

(3) A public body shall not be required to communicate information in the form indicated by the person making the request where to do so would

- (a) unreasonably interfere with the effective operation of the body; or
- (b) be detrimental to the preservation of the record.

(4) Where a record exists in more than one language, communication of the record shall, from among those languages, be given in accordance with the language preference of the person making the request.

14. If record is not held.

(1) Where an official who receives a request pursuant to section 5(1) believes that that request relates to information that is not contained in any record held by the public body, the official may transfer the request to the information officer for purposes of compliance with this section.

(2) Where an information officer receives a request pursuant to subsection (1), he or

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she shall confirm whether or not the public body holds a record containing the information and, if it does not, shall, if he or she knows of another public body which holds the relevant record, as soon as practicable, either

- (a) transfer the request to that public body and inform the person making the request of such transfer; or
- (b) indicate to the person making the request which public body holds the relevant record,

whichever would be likely to ensure more rapid access to the information.

(3) Where a request is transferred pursuant to subsection (2)(a), the time limit for responding to requests under section 11 shall begin to run from the date of transfer.

15. Vexatious, repetitive or unreasonable request.

(1) A public body is not required to comply with a request for information which it determines is vexatious or where it has recently complied with a substantially similar request from the same person.

(2) A public body is not required to comply with a request for information where to do so would unreasonably divert its resources.

PART 3
MEASURES TO PROMOTE OPENNESS

16. Guide to using this Act.

(1) The Commissioner shall, as soon as practicable, compile a clear and simple guide containing practical information to facilitate the effective exercise of rights pursuant to this Act, and shall disseminate the guide widely in an accessible form.

(2) The guide, referred to in subsection (1), shall be updated from time to time, as necessary.

17. Information officer.

(1) Subject to section 38, information officers shall be appointed to ensure that members of the public have easy access to relevant information and the name of each information officer shall be published in the *Official Gazette*.

(2) An information officer shall, in addition to any obligations specifically provided for in other sections of this Act, have the following responsibilities:

- (a) to promote the best possible practices in relation to record maintenance, archiving and disposal;
- (b) to liaise with the Permanent Secretaries, Heads of Departments and other public officials in the process of seeking information from a public body;
- (c) to serve as a central contact for receiving requests for information, for assisting persons seeking to obtain information and for receiving complaints regarding the performance of a public body relating to information disclosure.

18. Duty to publish.

(1) Every public body shall, in the public interest, publish and disseminate in an accessible form, at least annually, key information including but not limited to:

- (a) a description of its structure, functions, duties and finances;
- (b) relevant details concerning any services it provides directly to members of the public;
- (c) any direct request or complaint mechanism available to members of the public regarding acts or a failure to act by that body, along with a summary of any requests, complaints or other direct actions by members of the public and that body's response;
- (d) a simple guide containing adequate information about its record-keeping systems, the types and forms of information it holds, the categories of information it publishes and the procedure to be followed in making a request for information;
- (e) a description of the powers and duties of its senior officers, and the procedure it follows in making decisions;
- (f) any regulations, policies, rules, guides or manuals regarding the discharge by that body of its functions;
- (g) the content of all decisions and policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material; and
- (h) any mechanisms or procedures by which members of the public may make representations or otherwise influence the formulation of policy or the exercise of powers by that public body.

(2) Subject to sections 20 (4) and 21 (2), every public body shall submit an annual report on its activities pursuant to subsection (1), to the Commissioner.

19. Guidance on duty to publish.

The Commissioner shall:

- (a) publish a guide on minimum standards and best practices regarding the duty of public bodies to publish pursuant to section 18; and
- (b) upon request, provide advice to a public body regarding the duty to publish.

20. Maintenance of records.

(1) Every public body is under an obligation to maintain its records in a manner which facilitates the right to information, as provided for in this Act, and in accordance with the Code of Practice issued pursuant to subsection (3).

(2) Every public body shall ensure that adequate procedures are in place for the correction of personal information.

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(3) The Commissioner and the Director of the Archives shall together, after appropriate consultation with interested parties, issue and from time to time update a Code of Practice relating to the keeping, management and disposal of records, as well as the transfer of records to the National Archives.

(4) Every public body shall, in the annual report referred to in section 18 (2), report on its activities under this section.

21. Training of officials.

(1) Every public body shall ensure the provision of appropriate training for its officials on the right to information and the effective implementation of this Act.

(2) Every public body shall, in the annual report referred to in section 18 (2), report on its activities under this section.

22. Reports to Commissioner.

An information officer shall submit to the Commissioner a monthly report on requests for information made to the information officer which reports shall include information about:

- (a) the number of requests for information received, granted in full or in part, and refused;
- (b) how often and which sections of the Act were relied upon to refuse, in part or in full, requests for information;
- (c) appeals from refusals to communicate information; and
- (d) fees charged for requests for information.

PART 4
EXCEPTIONS

23. Public interest override.

Notwithstanding any provision in this Part, a public body may not refuse to indicate whether or not it holds a record, or refuse to communicate information, unless the harm to the protected interest outweighs the public interest in disclosure.

24. Information already publicly available.

Notwithstanding any provision in this Part, a body may not refuse to communicate information where the information is already publicly available.

25. Severability.

If a request for information relates to a record containing information which, subject to this Part, falls within the scope of an exception, any information in the record which is not subject to an exception shall, to the extent it may reasonably be severed from the rest of the information, be communicated to the person making the request.

26. Personal information.

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(1) Subject to subsection 2, a body shall refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would involve the unreasonable disclosure of personal information about a natural third party.

(2) Subsection (1) does not apply if:

- (a) the third party has effectively consented to the disclosure of the information;
- (b) the person making the request is the guardian of the third party, or the next of kin or the executor of the will of a deceased third party;
- (c) the third party has been deceased for more than 20 years; or
- (d) the third party is or was an official of a public body and the information relates to his or her function in that capacity.

27. Legal privilege.

(1) A public body shall refuse to indicate whether or not it holds a record, or refuse to communicate information, where the information is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.

(2) A public body shall refuse to communicate official Government legal opinions.

28. Commercial and confidential information.

(1) A public body shall refuse to communicate information if:

- (a) the information was obtained from a third party and to communicate it would constitute an actionable breach of confidence;
- (b) the information was obtained in confidence from a third party and:
 - (i) it contains a trade secret; or
 - (ii) to communicate it would, or would be likely to, seriously prejudice the commercial or financial interests of that third party; or
- (c) the information was obtained in confidence from another State or international organisation, and to communicate it would, or would be likely to, seriously prejudice relations with that State or international organisation.

(2) Subject to the provisions of the Banking Act, No. 1 of 2015, the Financial Services Regulation Commission Act, Cap. 21.10 or any other relevant legislation, a public body shall not communicate information concerning bank supervision.

29. Health and safety.

(1) A public body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, endanger the life, health or safety of any person.

(2) A public body shall refuse to communicate information from, regarding or concerning medical files.

30. Law Enforcement.

A public body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious 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;
- (e) the operation of immigration controls; or

the assessment by a public body of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified.

31. Defence and Security.

A public body shall refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the defence or national security of Saint Christopher and Nevis.

32. Information related to sustainable development.

(1) A public body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the ability of the Government to manage the economy of Saint Christopher and Nevis.

(2) A public body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the legitimate commercial or financial interests of a public body.

(3) Subsection (1) or (2) do not apply insofar as the request relates to the results of any product or environmental testing, and the information concerned reveals a serious public safety or environmental risk.

(4) A public body shall refuse to communicate privileged or sensitive geological and geophysical information for the purposes of sustainable development or pursuant to the provisions of section 31.

33. Policy making and operation of public bodies.

(1) A public body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to—

- (a) cause serious prejudice to the effective formulation or development of government policy;
- (b) seriously frustrate the success of a policy, by premature disclosure of that policy;
- (c) significantly undermine the deliberative process in a public body by inhibiting

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the free and frank provision of advice or exchange of views; or

- (d) significantly undermine the effectiveness of a testing or auditing procedure used by a public body.

(2) A public body may refuse to indicate whether or not it holds a record, or refuse to communicate information, which is:

- (a) the official record of any deliberation or decision of Cabinet;
- (b) a document that has been prepared by a Minister of Government or on his behalf or by a public authority for the purpose of submission for consideration by Cabinet or a document which has been considered by Cabinet and which is related to issues that are or have been before Cabinet;
- (c) a document prepared for the purpose of briefing a Minister of Government in relation to issues to be considered by Cabinet;
- (d) a document that is a copy or draft of, or contains extracts from, a document referred to in paragraph (a), (b) or (c); or
- (e) a document the disclosure of which would involve the disclosure of any deliberation or decision of Cabinet, other than a document by which a decision of Cabinet was officially published.

(3) Subsections (1) and (2) do not apply to facts, analyses of facts, technical or scientific data or statistical information unless the disclosure would involve the disclosure of any deliberation or decision of Cabinet.

(4) Subject to subsections (1) to (3), a public body shall refuse to communicate information which is

- (a) a privileged Ministerial communication;
- (b) Cabinet Submission or other Cabinet communication;
- (c) privileged communication with Her Majesty or the Governor-General;
- (d) privileged inter-agency or intra-agency memoranda or letters.

34. Time limits.

(1) The provisions of sections 27 to 32 apply to the extent that the harm they envisage would, or would be likely to, occur at or after the time at which the request is considered.

(2) Sections 28, 30, 31 and 32 do not apply to a record which is more than thirty years old.

PART 5 COMMISSIONER

35. Appointment of Commissioner.

(1) The Governor-General, acting on the recommendation of the Prime Minister and after consultation with the Premier and the Leader of the Opposition, shall appoint an Information Commissioner for the purposes of this Act, on such terms and conditions as may be specified in the instrument of his or her appointment.

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(2) A person shall not be appointed as the Commissioner if he or she:

- (a) is a member of the National Assembly;
- (b) holds or is acting in a public office;
- (c) is an undischarged bankrupt, having been declared bankrupt under any law;
- (d) holds an official office in, or is an employee of a political party,
- (e) has been convicted, of a violent crime or a crime of dishonesty or theft.

(3) The Commissioner shall hold office for a term of three years, and may be re-appointed to serve a maximum of two terms.

(4) The Commissioner may be removed from office by the Governor-General for inability to exercise the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour, on the recommendation of Prime Minister and after consultation with the Premier and the Leader of the Opposition.

36. Independence and powers.

(1) In exercise of his or her functions under this Act, the Commissioner shall not be subject to the direction or control of any person or authority.

(2) All officers and employees of the office of the Commissioner and any person authorised to perform any functions under this Act shall be under the control and direction of the Commissioner and perform their functions without fear, favour or prejudice and no person or authority shall interfere with or exert undue influence on them in the exercise of their powers or in the performance of their professional functions.

37. Functions of the Commissioner.

In addition to any other functions under this Act, the functions of the Commissioner shall be

- (a) to monitor and report on the compliance by public authorities with their obligations;
- (b) to make recommendations for reform of a general or specific nature to facilitate compliance with this Act;
- (c) to undertake or promote the training of officials of public authorities and other persons on the right to information and the effective implementation of this Act;
- (d) to refer to the appropriate authorities cases which reasonably disclose evidence of criminal offences; and
- (e) to publicise the requirements of this Act and the rights and obligations under the Act.

38. Staff.

There shall be appointed, in accordance with the laws governing appointments to

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the public service, information officers and employees to assist the Commissioner in the performance of his or her functions under this Act or any other law.

39. General activities.

In addition to any other powers and responsibilities provided for in this Act, the Commissioner may produce any report for any public body as he may deem appropriate.

40. Reports.

(1) The Commissioner shall, within three months after the end of each financial year, lay before the National Assembly an annual report on compliance by public bodies with this Act, the activities of his or her office during that financial year.

(2) The Commissioner may from time to time lay before the National Assembly such other reports as he or she deems appropriate.

41. Protection of Commissioner.

(1) No criminal or civil proceedings shall lie against the Commissioner, or against any person acting on behalf of or under the direction of the Commissioner, for anything done, reported or said in good faith in the course of the exercise of any power or duty pursuant to this Act.

(2) For the purposes of the law of libel or slander, anything said or any information supplied pursuant to an investigation under this Act is privileged, unless that information is shown to have been said or supplied with malice.

PART 6
ENFORCEMENT BY COMMISSIONER

42. Complaint to Commissioner.

A person who has made a request for information may apply to the Commissioner for a decision that a public body has failed to comply with an obligation under Part 2, including by—

- (a) refusing to indicate whether or not it holds a record, or to communicate information, contrary to section 5;
- (b) failing to respond to a request for information within the time limits established in section 10;
- (c) failing to provide a notice in writing of its response to a request for information, in accordance with section 11;
- (d) failing to communicate information forthwith, contrary to section 11(3);
- (e) charging an excessive fee, contrary to section 12; or

failing to communicate information in the form requested, contrary to section 13.

43. Complaint decision.

- (1) The Commissioner shall, subject to subsection (2), decide an application made

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pursuant to section 42 as soon as is reasonably possible, and in any case within 30 days, after giving both the complainant and the relevant public body an opportunity to provide their views in writing.

(2) The Commissioner may summarily reject applications:

- (a) which are frivolous, vexatious or clearly unwarranted; or
- (b) where the applicant has failed to use any effective and timely internal appeals mechanism provided by the relevant public body.

(3) In any application made pursuant to section 42, the burden of proof shall be on the public body to show that it acted in accordance with its obligations under Part 2.

(4) In his or her decision made pursuant to subsection (1), the Commissioner may

- (a) reject the application;
- (b) require the public body to take such steps as may be necessary to bring it into compliance with its obligations pursuant to Part 2;
- (c) require the public body to compensate the complainant for any loss or other detriment suffered; or
- (d) in cases of egregious or willful failures to comply with an obligation pursuant to Part 2, impose a fine on the public body.

(5) The Commissioner shall serve notice of his or her decision, including any rights of appeal, on both the complainant and the public body.

44. Direct implementation of decision.

(1) The Commissioner may, after giving a public body an opportunity to provide their views in writing, decide that a public body has failed to comply with an obligation pursuant to Part 2.

(2) In his or her decision made pursuant to subsection (1), the Commissioner may require the public body to take such steps as may be necessary to bring it into compliance with its obligations under Part 3, including by:

- (a) appointing an information officer;
- (b) publishing certain information and categories of information;
- (c) making certain changes to its practices in relation to the keeping, management and destruction of records, and the transfer of records to the National Archives;
- (d) enhancing the provision of training on the right to information for its officials;
- (e) providing the Commissioner with an annual report, in compliance with section 22;
- (f) in cases of egregious or willful failures to comply with an obligation under Part 3, paying a fine.

(3) The Commissioner shall serve notice of his or her decision, including any rights of appeal, on the public body.

45. Commissioner's powers to investigate.

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(1) In coming to a decision pursuant to section 43 or 44, the Commissioner shall have the power to conduct a full investigation, including by issuing orders requiring the production of evidence and compelling witnesses to testify.

(2) The Commissioner may, during an investigation conducted pursuant to subsection (1), examine any record to which this Act applies, and no such record may be withheld from the Commissioner on any grounds.

46. Appeal from Commissioner's decisions and orders.

(1) The complainant, or the relevant public body, may, within 28 days, appeal to the court for a full review of a decision of the Commissioner pursuant to section 43 or 44, or an order pursuant to section 45(1).

(2) In any appeal from a decision made pursuant to section 43, the burden of proof shall be on the public body to show that it acted in accordance with its obligations under Part 2.

47. Binding nature of Commissioner's decisions and orders.

Upon expiry of the 45-day period for appeals pursuant to section 46, the Commissioner may certify in writing to the court any failure to comply with a decision pursuant to section 43 or 44, or an order given pursuant to section 45(1), and the court shall consider such failure under the rules relating to contempt of court.

PART 7

BON FIDE DISCLOSURE OF WRONG-DOING

48. Whistle-blowers.

(1) A person may disclose information to the Commissioner or to any other authority on the wrong-doing by a public authority concerning

- (a) a serious threat to the health or safety of an individual or a serious threat to the public or the environment;
- (b) The commission of a criminal offence;
- (c) Failure to comply with a legal obligation;
- (d) A miscarriage of justice;
- (e) Corruption, dishonesty or serious maladministration;
- (f) Abuse of authority or neglect in the performance of official duty;
- (g) Injustice to an individual;
- (h) Unauthorised use of public funds

and that person shall not be liable in any legal proceedings or to any sanction relating to his or her employment if the information was disclosed in good faith and in the reasonable belief that it was true.

(2) A person who, pursuant to subsection (1), discloses information maliciously or without reasonable belief of the truthfulness of that information commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both.

PART 8
CRIMINAL AND CIVIL RESPONSIBILITY

49. Good faith disclosures.

A person shall not be subjected to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Act, as long as they acted reasonably and in good faith.

50. Criminal offences.

(1) A person shall not willfully:

- (a) obstruct access to any record contrary to Part 2 of this Act;
- (b) obstruct the performance by a public body of a duty pursuant to Part 3 of this Act;
- (c) interfere with the work of the Commissioner; or
- (d) destroy records without lawful authority.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding two years or to both.

PART 9
MISCELLANEOUS PROVISIONS

51. Regulations.

(1) The Minister may, by notice in the *Gazette* and after consultation with the Commissioner make Regulations for the purposes of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing the Minister may make Regulations particularly for the following:

- (a) to prescribe additional forms of communication of information under section 13(2);
- (b) relating to the training of officials pursuant to section 21;
- (c) relating to reports to the Commissioner pursuant to section 22;
- (d) to prescribe the form of any notice required by this Act; or
- (e) relating to any administrative or procedural matter necessary to give effect to this Act.

(3) Regulations made pursuant to this section shall, before publication in the *Gazette*, be laid before Parliament.

Freedom of Information Act, 2018 - 6.

A. MICHAEL PERKINS

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Speaker

Passed by the National Assembly this 3rd day of May, 2018.

SONIA BODDIE-THOMPSON
*Clerk of the National
Assembly*

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