

ACTS SUPPLEMENT

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Act 6

*Access to Information Act*

2005

THE ACCESS TO INFORMATION ACT, 2005.

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**CURRENCY POINT.**

**THE ACCESS TO INFORMATION ACT, 2005.**

**An Act to provide for the right of access to information pursuant to article 41 of the Constitution; to prescribe the classes of information referred to in that article; the procedure for obtaining access to that information, and for related matters.**

DATE OF ASSENT: 7th July, 2005.

*Date of Commencement:* See section 1(2) and (3).

20<sup>th</sup> April 2006  
S.I. NO 11 of 2006

BE IT ENACTED by Parliament as follows:

**PART I—PRELIMINARY.****1. Short title and commencement**

(1) This Act may be cited as the Access to Information Act, 2005.

(2) This Act shall come into force on a day to be appointed by the Minister by statutory Instrument and different days may be appointed for the commencement of different provisions.

20<sup>th</sup> April 2006 S.I. 11/06

(3) The Minister shall in any case ensure that the whole of this Act comes into force within the current financial year.

**2. Application**

(1) This Act applies to all information and records of Government ministries, departments, local governments, statutory corporations and bodies, commissions and other Government organs and agencies, unless specifically exempted by this Act.

(2) This Act does not apply to—

- (a) Cabinet records and those of its committees;
- (b) records of court proceedings before the conclusion of the case.

(3) Nothing in this Act detracts from the provisions of any other written law giving a right of access to the record of a public body.

### **3. Purpose of Act**

The purpose of this Act is—

- (a) to promote an efficient, effective, transparent and accountable Government;
- (b) to give effect to article 41 of the Constitution by providing the right to access to information held by organs of the State, other than exempt records and information;
- (c) to protect persons disclosing evidence of contravention of the law, maladministration or corruption in Government bodies;
- (d) to promote transparency and accountability in all organs of the State by providing the public with timely, accessible and accurate information; and
- (e) to empower the public to effectively scrutinise and participate in Government decisions that affect them.

### **4. Interpretation**

In this Act, unless the context otherwise requires—

“court” means the Chief Magistrates’ Court or the High Court;

“currency point” means the value specified in relation to a currency point in the Schedule;

“information” includes written, visual, aural and electronic information;

“information officer” means the Chief Executive of a public body;

“manual” means the manual of functions of, and index of records held by a public body, compiled under section 7;

“Minister” means the minister to whom the functions of the Minister under this Act have for the time being been assigned by the President;

“prescribed” means prescribed by regulations made under section 47;

“privacy” means the right of a person to keep his or her matters and relationships secret;

“proprietary information” means information relating to any manufacturing process, trade secret, trademark, copyright, patent or formula protected by law or by International Treaty to which Uganda is a party;

“public body” includes a government ministry, department, statutory corporation, authority or commission;

“record” means any recorded information, in any format, including an electronic format in the possession or control of a public body, whether or not that body created it;

“relevant authority” means the Minister responsible for that public body or the person designated in writing by that Minister;

“request for access” means a request for access to a record of a public body under section 11;

"Rules Committee" means the Rules Committee established by section 40 of the Judicature Act;

"security" means the protection of Uganda against threats such as crime, criminals and attacks by foreign countries;

"sovereignty" means the supremacy of the State;

"third party" in relation to a request for access, means any person, including but not limited, to the government of a foreign state, an international organisation or an organ of that government or organisation, other than—

(a) the person requesting the record; and

(b) a public body.

## PART II—ACCESS TO INFORMATION AND RECORDS.

### 5. Right of access

(1) Every citizen has a right of access to information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.

(2) For the avoidance of doubt, information and records to which a person is entitled to have access under this Act shall be accurate and up-to-date so far as is practicable.

### 6. Access to information and records

A person's right of access is, subject to this Act, not affected by—

(a) any reason the person gives for requesting access; or

(b) the information officer's belief as to what the person's reasons are for requesting access.

**7. Manual of functions and index of records of public body**

(1) Within six months after the commencement of this section or the coming into existence of a public body, the information officer of the public body shall compile a manual containing—

- (a) a description of the public body and the functions of the public body;
- (b) the postal and street address, phone and fax number and electronic mail address of the information officer of the body and of every deputy information officer;
- (c) the address of the established office of the public body at which the public may make requests and obtain information;
- (d) sufficient detail, including the nature of all formal and informal procedures available to facilitate a request for access;
- (e) a description of the subjects on which the body holds records and the categories of records held on each subject;
- (f) the most recent notice published under section 8, if any, regarding the categories of records of the body which are available without a person having to request access under this Act;
- \*(g) a description of the services available to members of the public from the body and how to gain access to those services;
- (h) a description of any arrangement or provision for a person by consultation, making representations or otherwise, to participate in or influence—
  - (i) the formulation of policy; or
  - (ii) the exercise of the powers or performance of duties, by the body;

(i) a description of all remedies available in respect of an act or a failure to act by the body; and

(j) such other information as may be prescribed.

(2) A public body shall update and publish its manual at least once in every two years.

(3) Each manual shall be made available as prescribed.

### **8. Disclosure and automatic availability of certain records**

An information officer shall, once in every two years, publish a description of—

(a) the categories of records of the public body that are automatically available without a person having to request access under this Act, including the categories available—

(i) for inspection under a written law other than this Act;

(ii) for purchase or copying from the public body; and

(iii) from the public body free of charge; and

(b) how to obtain access to those records.

### **9. Information in directory**

The Minister shall ensure the publication in every directory issued for general use by the public, of the postal and street address, phone and fax number and electronic mail address of the information officer of every public body.

### **10. Information officers**

For the purposes of this Act, the Chief Executive of each public body shall be responsible for ensuring that records of the public body are accessible under this Act.



**11. Form of request**

(1) A request for access to a record or information shall be in writing in the prescribed form to the information officer of the public body in control of the record or information required and shall provide sufficient details to enable an experienced employee of the public body to identify the record or information.

(2) The form for a request of access prescribed under subsection (1) shall require the person requesting access—

(a) to provide sufficient particulars to enable the information officer to identify—

(i) the record or records requested; and

(ii) the person requesting the information;

(b) to indicate which applicable form of access referred to in section 20(2) is required;

(c) to specify the address of the person requesting the information; and

(d) if the request is made on behalf of a person, to state the capacity in which the person requesting the information is making the request.

(3) A person who, because of illiteracy or disability is unable to make a request for access in accordance with subsection (1) may make that request orally.

(4) The information officer of a public body to whom an oral request is made under subsection (3) shall reduce the request to writing in the prescribed form and shall provide a copy of the written request to the person requesting access.

**12. Duty to assist persons**

(1) Where a person informs the information officer—

(a) that he or she wishes to make a request for access to a record of the public body of that information officer; or

(b) that he or she wishes to make a request for access to a record of another public body, the information officer shall render such reasonable assistance, free of charge, as is necessary to enable that person to comply with section 11.

(2) Where a person makes a request for access that does not comply with section 11, the information officer shall not refuse the request because of that non-compliance unless the information officer has—

(a) notified that person of an intention to refuse the request and stated in the notice—

(i) the reasons for the contemplated refusal; and

(ii) that the information officer or other official identified by the information officer would assist that person in order to make the request in a form that would remove the reasons for refusal;

(b) given the person a reasonable opportunity to seek the assistance referred to in paragraph (a)(ii);

(c) as far as reasonably possible, furnished the person requesting access with any information, including information about the records, other than information under Part III that would assist the making of the request in that form; and

(d) given the person a reasonable opportunity to confirm the request or to alter it to comply with section 11.

(3) When computing any period referred to in section 15(1), the period commencing on the date on which notice is given under subsection (2) and ending on the date on which the person confirms or alters the request for access concerned shall be disregarded.

(4) Where it is apparent, on receipt of a request for access, that the request should have been made to another public body, the information officer of the public body receiving the request shall-

- (a) render any assistance necessary to enable the person requesting access to make the request to the information officer of the appropriate public body; or
- (b) transfer the request in accordance with section 13, to the appropriate information officer,

whichever will result in the request being dealt with sooner.

### 13. Transfer of request

(1) Where a request for access is made to the information officer of a public body in respect of which—

- (a) the record is not in the possession or under the control of that body but is in the possession of another public body; or
- (b) the subject matter of the record is more closely connected with the functions of another public body than those of the public body of the information officer to whom the request is made,

the information officer to whom the request is made shall, as soon as reasonably possible but in any event within twenty one days after the request is received—

- (i) transfer the request to the information officer of the other public body; and
- (ii) if the public body of the information officer to whom the request is made is in possession of the record and considers it is helpful to do so to enable the information officer of the other public body to deal with the request, send the record or a copy of the record to that information officer.

(2) Upon the transfer of a request for access, the information officer making the transfer shall immediately notify the person requesting access of—

- (a) the transfer;
- (b) the reasons for the transfer; and
- (c) the period within which the request shall be dealt with.

**14. Records that cannot be found or do not exist**

(1) Where a request for access is made to the information officer of a public body in respect of which—

- (a) the record is not in the possession or under the control of the public body of that information officer and the information officer does not know which public body has possession or control of the record; or
- (b) all reasonable steps have been taken to find a record requested; and
- (c) there are reasonable grounds for believing that the record—
  - (i) is in the possession of the public body but cannot be found;  
or
  - (ii) does not exist;

the information officer shall, in writing, notify the person that it is not possible to give access to that record.

(2) The notice referred to in subsection (1) shall give a full account of all steps taken to find the record in question or to determine whether the record exists, as the case may be, including all communications with every person who conducted the search on behalf of the information officer.

(3) For the purposes of this Act, the notice under subsection (1) is to be regarded as a decision to refuse a request for access to the record.

(4) Where, after notice is given under subsection (1), the record in question is found, the person requesting access shall be given access to the record unless access is refused on a ground for refusal under Part III.

### 15. Deferral of access

(1) Where the information officer determines that access may be granted to a record, but that record—

(a) is to be published within ninety days after the receipt or transfer of the request or such further period as is reasonably necessary for printing the record for the purpose of publishing it;

(b) is required by law to be published but is yet to be published; or

(c) has been prepared for submission to a public body, public officer or a particular person but is yet to be submitted,

the information officer may defer giving access to the record.

(2) Where access to a record is deferred under subsection (1), the information officer shall notify the person concerned—

(a) that he or she may, within twenty one days after that notice is given, make representations to the information officer why the record is required before the publication or submission; and

(b) of the likely period for which access is to be deferred.

(3) Where a person makes representations under subsection (2)(a), the information officer shall, after due consideration of those representations, grant the request for access only if there are reasonable grounds for believing that the person will suffer substantial prejudice if access to the record is deferred for the period referred to in subsection (2)(b).

### 16. Decision on request and notice

(1) The information officer to whom a request for access is made transferred shall, subject to section 17, as soon as reasonably possible, but in any event within twenty one days, after the request is received—