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SUMMARY ON THE PRINCIPAL LEGISLATION: THE ACCESS TO INFORMATION ACT, CAP 149 R.E. 2023

A Knowledge Hub Publication

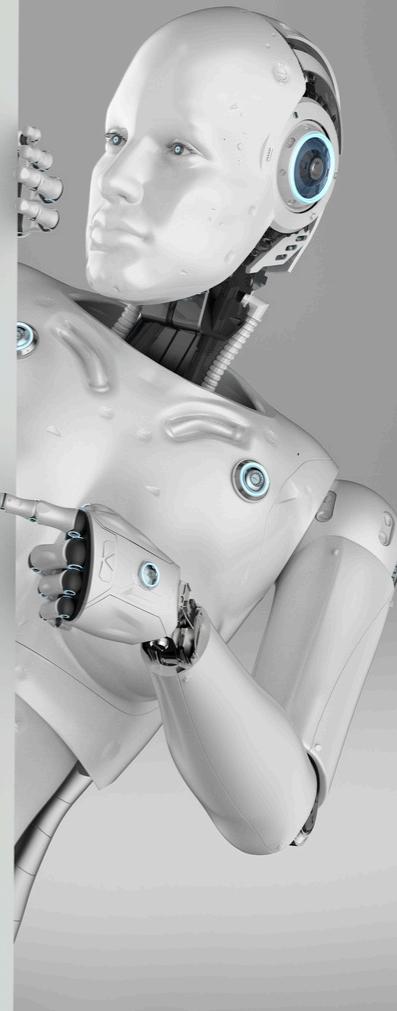
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*This summary will be eying on
the Principal Legislation short
titled*

The Access to Information Act,Cap 149 R.E 2023

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1.0. Introduction

The Access to information Act was enacted in the year 2016 and came into operation on the 1st of July 2017 as the official date of commencement. The Act remains in its original enactment form with no amendment or modification.

2.0. Long Title of the Act

The formal or long title of the Act provides for:

An Act to provide for access to information; to define the scope of information which the public has the right to access; to promote transparency and accountability of information holders; and to provide for other related matters.

2.1 Rationale for Enactment:

The Act was enacted to among other things give effect to the constitutional right of citizens to access information under Article 18 of the Constitution of the United Republic of Tanzania[1].

[1] URTC, CAP 2, R.E,20025

The Act mandates that information holders pro-actively disclose information and respond to public requests and establish a clear legal framework for access to information, aligned with constitutional and other legal rights.

Holders of information are also required to build transparency, accountability, and public participation through systematic information disclosure. Moreover, they have a duty to offer protection for individuals who release public-interest information in good faith such as whistle-blowers.

In short, the Act supports good governance by ensuring that citizens can access information and that public bodies are transparent and accountable.

2.2. Key Provisions of the Act:

The Act establishes the right to access information, procedures for requesting it, duties of authorities to provide it, exemptions to protect sensitive interests, and penalties for unlawful denial or misuse of information.

2.3. Scope & Access (Part II):

Every citizen has a right to access information under control of information holders—which include public authorities and some private bodies funded by or carrying out public functions.

[1]The Access to Information Act, Cap 149 R.E,2023

[1] URTC, CAP 2, R.E,20025

It also applies to public institutions, government agencies, and private bodies performing public duties.

The Act covers records in the written, electronic, audio, and visual formats and requests must be processed within set timeframes, and there are formal procedures for requesting, refusal, transfer, deferral, or review. Citizens may request information in writing or orally. Information officers must acknowledge and respond within a specified time usually 30 days. Requests for information may be refused only under specific lawful grounds. Every citizen has the right to access information held by public authorities and private bodies that perform public functions or receive public funds. Access must be consistent with constitutional rights and other laws.

Public authorities must proactively publish important information of public interest. Institutions are also required to designate an information officer to handle requests.

2.4. Exemptions under Section 6 of the Act:

Some information may be withheld if its disclosure would harm national security, judicial processes, law enforcement, privacy, commercial interests, economy, cabinet deliberations, or ongoing legal proceedings.

Exempt categories of information include information over 30 years old is presumed disclosable unless proven otherwise.

Unauthorized disclosure of non-security exempt information is punishable by 3–5 years imprisonment. Disclosure of national security information is subject to the National Security Act.

3.0. Record Keeping & Proactive Disclosure (Part III):

Information holders must appoint information officers to manage requests.

Records must be kept for at least 30 years. Information holders are required to publicly publish descriptions of their structure, functions, and categories of information held, within 36 months of the Act's commencement.

3.1. Use of Information & Offenses:

Recipients must not distort received information. Violators face 2–5 years imprisonment. Deliberate destruction or concealment of records to frustrate disclosure can result in a fine up to 5 million TZS or imprisonment up to 12 months, or both.

3.2. Whistle-blower Protection:

Individuals who in good faith disclose wrongdoing for instance criminal offences, corruption, maladministration, threats to health, or environment cannot face legal or employment retaliation. A person who discloses information in good faith is protected from liability.

3.3. Appeals & Oversight:

Aggrieved individuals under the Access to information Act may request internal review, appeal to the Minister, or take cases to the High Court.[1] If a request is denied, the applicant can appeal internally to the head of the institution.

Further appeal lies to the Minister responsible for information and eventually to the High Court. Regulations and fees to facilitate implementation are made by the relevant Minister

[1] Roberts, A. (2002). Administrative discretion and the Access to Information Act: an “internal law” on open government?. *Canadian Public Administration*, 45(2), 175-194.

3.4. Sanctions under the Act:

The Act creates key offences and imposes penalties for violations; the offences range from disclosure of non-security exempt information whose sanction is Imprisonment 3–5 years to disclosure of national security exempt information-Sanctions under National Security Act.[1] Distorting received information- Imprisonment 2–5 years. Concealing/destroying records to frustrate access-Fine up to 5 million TZS or imprisonment up to 12 months

Unlawful denial of access, destruction, concealment, or falsification of information is an offence. Offenders may face fines or imprisonment. Information officers who refuse access without lawful reason may also be sanctioned.

3.5 Amendments to Other Laws:

The Act harmonizes with the Constitution and other media with other communication laws, but some critics argue it gives wide powers to government authorities to limit access.[1]

[1] Matumaini, J. (2010). Research on national communication policy in Africa and Tanzania. *African Communication Research*, 3(1), 1-36.

4.0 Conclusion:

An Act to provide for access to information; to define the scope of information which the public has the right to access; to promote transparency and accountability of information holders; and to provide for other related matters. Rationale of the enactment was to strengthen constitutional right to information, ensure proactive disclosure, build transparency and accountability, and protect whistle-blowers[1]. The provisions include clear access procedures, obligations for information holders, exemptions, record retention, proactive publication, and redress mechanisms. Sanctions under the Act include significant prison terms, fines, and legal consequences for various violations as canvassed in the Article.

[1] Roberts, A. (2002). Administrative discretion and the Access to Information Act: an "internal law" on open government?. *Canadian Public Administration*, 45(2), 175-194.

[1] Cap. 47 R.E,2023

[1] Matumaini, J. (2010). Research on national communication policy in Africa and Tanzania. *African Communication Research*, 3(1), 1-36.

[1] Ibid

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