

exemptions which balance that right against the public interest in exempting from disclosure governmental, commercial or personal information
short title and commencement

THE ACCESS TO INFORMATION ACT

"document" includes, in addition to a document in writing—

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied, whether electronically or otherwise, so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (d) any film (including microfilm), negative, tape or other device in which one or more visual images are embodied whether electronically or otherwise, so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;

"exempt document" means a document which by virtue of any provision of Part III is exempt from disclosure;

"exempt matter" means any matter the inclusion of which in a document causes that part of the document to be exempt from disclosure;

"government company" means a company registered under the Companies Act, being a company in which the Government or an agency of the Government, whether by the holding of shares or by other financial input, is in

"responsible Minister" means the Minister responsible for the public authority which holds an official document.

4.—(1) A public authority shall cause to be published within twelve months of—

Publication of information by public authority.

- (a) the appointed day;
- (b) its establishment; or
- (c) the coming into operation of an order under section 5 (3) which specified that authority,

whichever is later, an initial statement of its organization and functions containing the information specified in the First Schedule.

(2) The provisions of the First Schedule shall apply for the purposes of making available to the public the documents described in that Schedule.

First Schedule.

(3) The information required under subsection (1) shall be published in such manner and shall be updated with such frequency as may be prescribed.

(4) The Minister may amend the First Schedule by order subject to affirmative resolution.

5.—(1) Subject to subsection (2), this Act applies to—

Application of Act.

- (a) all public authorities;
- (b) official documents created by or held by a public authority not earlier than thirty years immediately preceding the appointed day.

(2) The Minister may, by order subject to negative resolution, declare that this Act shall apply to official documents created by or held by a public authority at such date, being earlier than the thirty years referred to in subsection (1) (b), as may be specified in that order.

(3) The Minister may, by order subject to affirmative resolution, declare that this Act shall apply to—

- (a) such government companies, other than those specified in paragraph (e) (i) of the definition of "public authority", as may be specified in the order;
- (b) any other body or organization which provides services of a public nature which are essential to the welfare of the Jamaican society,

or to such aspects of their operations as may be specified in the order.

(4) An order under subsection (3) may be made subject to such exceptions, adaptations or modifications, as the Minister may consider appropriate.

(5) The Minister may, by order subject to affirmative resolution, declare that the application of this Act in relation to any government company specified in paragraph (e) (i) of the definition of "public authority" shall be subject to such exceptions, adaptations or modifications as the Minister may consider appropriate.

(6) This Act shall not apply to—

- (a) the Governor-General, in relation to the exercise of the powers and duties conferred or imposed on him by or under the Constitution of Jamaica or under any other law;
- (b) the judicial functions of—
 - (i) a court;
 - (ii) the holder of a judicial office or other office connected with a court;
- (c) the security or intelligence services in relation to their strategic or operational intelligence gathering activities;
- (d) any statutory body or authority as the Minister may specify by order subject to affirmative resolution.

(7) This Act applies to official documents held in a registry or other office of a court, being documents that relate only to matters of an administrative nature.

(8) In subsection (6) "security or intelligence services" means—

- (a) the Jamaica Constabulary Force;
- (b) the Island Special Constabulary Force;
- (c) the Rural Police;
- (d) the Jamaica Defence Force.

PART II. *Right of Access*

6.—(1) Subject to the provisions of this Act, every person shall have a right to obtain access to an official document, other than an exempt document.

Right
of access.

(2) The exemption of an official document or part thereof from disclosure shall not apply after the document has been in existence for twenty years, or such shorter or longer period as the Minister may specify by order, subject to affirmative resolution.

(3) An applicant for access to an official document shall not be required to give any reason for requesting access to that document.

(4) Where an official document is—

- (a) open to access by the public pursuant to any other enactment, as part of a public register or otherwise; or
- (b) available for purchase by the public in accordance with administrative procedures established for that purpose,

access to that document shall be obtained in accordance with the provisions of that enactment or those procedures, as the case may be.

Application
for access.

7.—(1) A person who wishes to obtain access to an official document shall make an application to the public authority which holds that document.

(2) An application under subsection (1)—

(a) may be made in writing or transmitted by telephone or other electronic means;

- (c) in the case of a document from which sounds or visual images are capable of being reproduced, arrangements may be made for the applicant to hear the sounds or view the visual images;
- (d) in the case of a document by which or in which words are—
 - (i) recorded in a manner in which they are capable of being reproduced in the form of sound and images; or
 - (ii) contained in the form of shorthand writing or in codified form,

the applicant may be furnished with a transcript of the data or the words, sounds and images recorded or contained in that document.

(2) Subject to subsection (3), where an applicant requests that access be given in a particular form, access shall be given in that form.

(3) A public authority may grant access in a form other than that requested by an applicant where the grant of access in the form requested would—

- (a) be detrimental to the preservation of the document, or be inappropriate, having regard to its physical state;
- (b) constitute an infringement of copyright subsisting in any matter contained in the document.

(4) Copies of documents to which access is granted shall be authenticated in the prescribed manner.

10.—(1) Where the information provided by the applicant in relation to the document is not such as is reasonably necessary to enable the public authority to identify it, the authority shall afford the applicant a reasonable opportunity to consult with the authority with a view to reformulating the application so that the document can be identified.

Assistance and
deferment
of access

(2) A public authority may defer the grant of access to an official document—

- (a) if publication of the document within a particular period is required under the provisions of any enactment, until the expiration of that period;
- (b) if the document was prepared for presentation to Parliament or for the purpose of being made available to a particular person or body, until the expiration of a reasonable period after its preparation for it to be so presented or made available to the person or body;
- (c) if the premature release of the document would be contrary to the public interest, until the occurrence of any event after which or the expiration of any period beyond which, the release of the document would not be contrary to the public interest.

(3) Where a public authority decides to defer access in accordance with subsection (2), it shall, within fourteen days of its decision, inform the applicant of that decision and shall, where possible, indicate to him the period during which the deferment will operate.

11.—(1) Where an application is made to a public authority for access to an official document which contains exempt matter, the authority shall grant access to a copy of the document with the exempt matter deleted therefrom.

Deletion of
exempt matter

- (b) prejudice—
 - (i) the conduct of an investigation of a breach or possible breach of the law; or
 - (ii) the fair trial of any person or the impartial adjudication of a particular case;
- (c) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, in relation to law enforcement;
- (d) reveal lawful methods or procedures for preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law, where such revelation would, or could be reasonably likely to, prejudice the effectiveness of those methods or procedures;
- (e) facilitate the escape of a person from lawful detention; or
- (f) jeopardize the security of any correctional facilities.

17. An official document is exempt from disclosure if—

- a) it would be privileged from production in legal proceedings on the ground of legal (professional privilege; or
- (b) the disclosure thereof would—
 - (i) constitute an actionable breach of confidence;
 - (ii) be in contempt of court; or
 - (iii) infringe the privileges of Parliament.

Documents subject to legal privilege, etc.

18.—(1) An official document of a type specified in subsection (2) is exempt from disclosure if its disclosure or, as the case may be, its premature disclosure would, or could reasonably be expected to, have a substantial adverse effect on the Jamaican economy, or the Government's ability to manage the Jamaican economy.

Documents affecting national economy.

(2) The types of documents referred to in subsection (1) include but are not limited to, documents relating to taxes, duties or rates, interest rates, monetary policy and exchange rate policy or currency or exchange rates.

19.—(1) Subject to subsection (3), an official document is exempt from disclosure if it contains—

- (a) opinions, advice or recommendations prepared for;
- (b) a record of consultations or deliberations arising in the course of, proceedings of the Cabinet or of a committee thereof.

Documents revealing Government's deliberative TJ8 Tc 0 -1.57 T

(2) Subsection (1) shall not apply to documents which contain material of a purely factual nature or reports, studies, tests or surveys of a scientific or technical nature.

(3) A public authority shall grant access to a document referred to in subsection (1) if it is satisfied, having regard to all the circumstances, that the disclosure thereof would, on balance, be in the public interest.

20.—(1) Subject to subsection (2), an official document is exempt from disclosure if—

- (a) its disclosure would reveal—
 - (i) trade secrets;
 - (ii) any other information of a commercial value, which value would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed;
- (b) it contains information (other than that referred to in paragraph (a)) concerning the commercial interests of any person or organization (including a public authority) and the disclosure of that information would prejudice those interests.

(2) Subsection (1) shall not apply where the applicant for access is the person or organization referred to in that subsection or a person acting on behalf of that person or organization.

21.—(1) Subject to subsection (2), an official document is exempt from disclosure if its disclosure would, or could reasonably be expected to result in the destruction of, damage to, or interference with, the conservation of—

- (a) any historical, archaeological or anthropological resources;
- (b) anything declared to be a national monument, designated as protected national heritage or protected by a preservation notice under the Jamaica National Heritage Trust Act;
- (c) any species of plant or animal life so designated or which is endangered, threatened or otherwise vulnerable;
- (d) any other rare or endangered living resource.

(2) A public authority shall grant access to a document referred to in subsection (1) if it is satisfied, having regard to all the circumstances, that the disclosure thereof would, on balance, be in the public interest.

22.—(1) Subject to the provisions of this section, a public authority shall not grant access to an official document if it would involve the unreasonable disclosure of information relating to the personal affairs of any person, whether living or dead.

(2) Subsection (1) shall not apply in any case where the application for access is made by the person to whose affairs the document relates.

23.—(1) Where—

- (a) the Prime Minister is satisfied that an application for access relates to a document specified in section 15 (1);

- (a) is satisfied as to the truth of the matters specified in that application, the authority shall annotate the document in the prescribed manner;
- (b) is not so satisfied, it may refuse to annotate the document.

27. A public authority which amends or annotates an official document pursuant to section 25 or 26, or, as the case may be, decides not to do so, shall take reasonable steps to inform—

- (a) the applicant; and
- (b) any other public authority which it is satisfied has made prior use of the document,

of the nature of the amendment or annotation or, as the case may require, of the decision and the reasons for that decision.

28. The provisions of section 8 shall apply, with such modifications as may be necessary, to applications for amendments or annotations of personal records.

PART V. Review and Appeal

29. In this Part and Part VI “relevant decision” means a decision referred to in section 30 (1) or (2), as the case may require.

30.—(1) An applicant for access to an official document may, in accordance with subsection (4), apply for an internal review of a decision by a public authority to—

- (a) refuse to grant access to the document;
- (b) grant access only to some of the documents specified in an application;
- (c) defer the grant of access to the document;
- (d) charge a fee for action taken or as to the amount of the fee.

(2) An applicant for amendment or annotation of a personal record may, in accordance with subsection (4),

(2) An application for internal review shall be made—

- (a) within thirty days after the date of a notification (in this subsection referred to as the initial period) to the applicant of the relevant decision, or within such further period, not exceeding thirty days, as the public authority may permit; or
- (b) where no such notification has been given, within thirty days after the expiration of the period allowed for the giving of the decision or of any other period permitted by the authority.

(3) A person who conducts an internal review—

- (a) may take any decision in relation to the application which could have been taken on an original application;
- (b) shall take that decision within a period of thirty days after the date of receipt of the application.

32.—(1) An appeal shall lie pursuant to subsections (2) and (3), to the tribunal established for that purpose, constituted in accordance with the Second Schedule.

(2) A person may lodge an appeal—

- (a) where internal review under section 30 is applicable—
 - (i) against a decision taken on such review;
 - (ii) if the time specified in section 31 (2) (b) has expired without the applicant

(b) shall not nullify a certificate issued under section 23.

(7) The Appeal Tribunal may call for and inspect an

the document with the intention of preventing its disclosure.

(2) A person who commits an offence under subsection (1) is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

35.—(1) Where access to an official document is granted in accordance with this Act, the person who authorizes such access and any other person concerned in the granting thereof shall not, by reason only of so doing, be guilty of a criminal offence. Provisions re other Acts.

(2) Subject to subsection (3), nothing in this Act shall affect the provisions of any other Act other than the Official Secrets Act, relating to the non-disclosure of information.

(3) For the avoidance of any doubt, it is hereby declared that the Official Secrets Act shall apply in relation to the grant of access to an official document in contravention of this Act.

36.—(1) The Minister shall, as soon as practicable after the end of each year (but not later than the 30th of June in the following year) prepare a report of the operation of this Act during the year, containing the matters specified in subsection (4). Reports.

(2) The report referred to in subsection (1) shall be laid on the table of the House of Representatives and of the Senate.

(3) Each public authority shall submit to the Minister, quarterly reports on the matters specified in subsection (4).

(4) The matters referred to in subsections (1) and (3) are—

- (a) the number of applications for access received, granted, deferred, refused or granted subject to deletions;
- (b) the categories of exemptions claimed and the numbers of each category;
- (c) the number of applications received for—
 - (i) amendment of personal records;
 - (ii) annotation of personal records;
- (d) the number of—
 - (i) applications for internal review of relevant decisions;
 - (ii) appeals against relevant decisions, and the rate of success or failure thereof;
- (e) such other matters as are considered relevant.

37. The Minister may make regulations generally for giving effect to the provisions and purposes of this Act and such regulations shall be subject to affirmative resolution. Regulations.

38.—(1) This Act shall be reviewed from time to time by a committee of both Houses of Parliament appointed for that purpose. Review of Act by Parliamentary committee

(2) The first such review shall be conducted not later than two years after the appointed day.

FIRST SCHEDULE

(Section 4)

Information to be Published by Public Authorities

1. The information referred to in section 4 of this Act is—

- (a) a description of the subject area of the public authority;
- (b) a list of the departments and agencies of the public authority and—
 - (i) subjects handled by each department and agency;
 - (ii) the locations of departments and agencies;
 - (iii) opening hours of the offices of the authority and its departments and agencies;
- (c) the title and business address of the principal officer;
- (d) a statement of the documents specified in sub-paragraph (e) being documents that are provided by the public authority for the use of, or which are used by the authority or its officers in making decisions or recommendations, under or for the purposes of an enactment or scheme administered by the authority, with respect to rights, privileges or benefits, or to obligations, penalties or other detriments, to or for which persons are or may be entitled or subject;
- (e) the documents referred to in sub-paragraph (d) are—
 - (i) manuals or other documents containing interpretations, rules, guidelines, practices or precedents;
 - (ii) documents containing particulars of a scheme referred to in paragraph (d), not being particulars contained in an enactment or published under this Act.

2. The principal officer of the authority shall—

- (a) cause copies of such of the documents specified in paragraph 1 (e) as are in use from time to time to be made available for inspection and for purchase by members of the public;

