

**MEDIA ALLIANCE OF ZIMBABWE
(MAZ)**

Together with

**ZIMBABWE NATIONAL EDITORS FORUM
(ZINEF)**

SUBMISSION TO THE PARLIAMENTARY LEGAL COMMITTEE ON THE
INTERCEPTION OF COMMUNICATIONS BILL, 2006

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Foreword

The Access to Information and Protection of Privacy Act (AIPPA), promulgated in 2002, remains one of the major hindrances to the development of the media in Zimbabwe. While acknowledging the need for an access to information law for the benefit of citizens, MISA-Zimbabwe notes that in its current form, AIPPA is contrary to its name and preamble. The shutting down of four newspapers and the arrests of journalists is enough evidence that the law has nothing positive to offer.

As part of its contribution to efforts to reform the media sector in Zimbabwe, MISA-Zimbabwe consulted widely with journalists, lawyers and members of civil society and has consolidated their views and concerns to come up with an alternative Access to Information Law. The proposed alternative is a lobby and advocacy tool that we hope to use to influence the legislative bodies with regard to media law reform in Zimbabwe. MISA-Zimbabwe believes that the controversies over AIPPA are enough evidence that this law is bad. Its form and spirit are not shared by many people of Zimbabwe hence incessant calls to overhaul it alongside many other laws including the Official Secrets Act, sections of the Public Order and Security Act (POSA) and the Broadcasting Services Act (BSA). The combined effect of these laws is to stifle media development, the exercise of media freedom and other such rights.

Contrary to AIPPA and the views of those who initiated it and indeed those who continue to support the existence of this law, MISA-Zimbabwe believes that an Access to Information legislation should lay out a clear, efficient and transparent procedure on how members of the public should access public information and also information held by private bodies which is necessary in order to protect or advance other rights. An Access to Information law is premised on the idea that government should open up their activities for scrutiny by citizens and that the operations of any democratic government are on the basis of mutual trust and shared responsibilities with all sectors in society. AIPPA perpetuates a culture of secrecy and unaccountability on the part of government and private bodies, with its many exemptions on information that cannot be accessed or disclosed. Further restrictions placed on media organizations and media workers as a result of registration and licensing conditionalities serve no positive purpose in the work or operations of media organizations which are one critical sector that keeps citizens informed on developments in a given country and the world at large.

With the sole goal of promoting dialogue with government, civil society and citizens of Zimbabwe on the need for a progressive Access to Information Law, MISA-Zimbabwe commenced work in February 2005, that sought to come up with views on what civil society, the media and other sectors would want to see as an Access to Information Law. Believing that the process of coming up with such legislation requires the maximum participation of all citizens, consultations were made in Harare, Mutare, Bulawayo, Gweru and Masvingo and other parts of Zimbabwe. Target audience included lawyers, journalists and representatives from the civic society and ordinary citizens who all made input into what they expect an Access to Information legislation to contain.

In coming up with this document, consideration has been taken of regional and international instruments. The African Commission for Human and Peoples' Rights' Declaration of Principles on Freedom of Expression in Africa includes provisions which

make it clear that public bodies should hold information not for themselves but as custodians of the public good. Further, the Declaration clearly states that everyone has a right to access information held by public bodies in terms of clearly defined rules established by law.

As we read this alternative Access to Information law, we should also remember that the constitution has a direct bearing on the right to access information. For this reason MISA-Zimbabwe supports calls for a new constitution for Zimbabwe. MISA-Zimbabwe acknowledges that an access to information law should be supported by the relevant constitutional changes, especially an express constitutional guarantee of the right to freedom of expression and also the right to media freedom. The current constitution, while acknowledging freedom of expression rights, however, fails to guarantee express media freedom rights.

This alternative Access to Information law seeks to generate constructive debate in all groups with an interest in preserving and strengthening democracy. Target groups include journalists, policy-makers, lobbyists, members of the civil society as well as the general public.

Thomas Deve
CHAIRPERSON
MISA – Zimbabwe

Access to information Bill, 2006

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BILL

To provide for the disclosure of information in the public interest and for the promotion of free flow of information; to guarantee the right of all persons to obtain information either directly from the primary source of information or via various media of choice; to repeal the Access to Information and Protection of Privacy Act [*Chapter 10:27*], to repeal the Official Secrets Act [*Chapter 11:09*]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Access to Information Act [*Chapter 10:28*].

2 Interpretation

In this Act—

“appeal” means an appeal in terms of Part VI to the Information Commissioner or to an appropriate magistrates court;

“applicant”, in relation to a request for information, means the person who makes the request;

“appropriate magistrates court” has the meaning given to it in section *forty*;

“document” includes the whole or any part of—

- (a) any paper or other material on which there is writing;
- (b) a map, plan, drawing or photograph;
- (c) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- (d) any article or material from which sounds, images or writings are capable of being reproduced, with or without the aid of any other article or device;
- (e) any article or material on which information has been stored or recorded, either mechanically or electronically;
- (f) any other record of information;
- (g) any copy, reproduction or duplicate of a thing referred to in paragraphs (a) to (f);

“information” means any information, regardless of its form, source, date of creation, or official status;

“information commissioner” means a person designated in terms of section *seven* as an information commissioner;

“information officer” means a person designated in terms of section *seventeen* as a public body’s information officer, and includes a provincial information officer;

“Minister” means the Minister of Information or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“personal information” means information that relates to a living individual who can be identified from that information;

“private body” has the meaning given to it in section *four*;

“provincial information officer” means a person designated in terms of subsection (3) of section *seventeen* as a public body’s information officer for a province;

“public body” has the meaning given to it in section *four*;

“publish”, in relation to information, means to make the information available in a form generally accessible to members of the public, whether in writing, by broadcasting or in electronic form, and “publication” shall be construed accordingly;

“request for information” means a request for information made in terms of section *twenty*.

3 Guiding principles of interpretation

- (1) This Act shall be interpreted so as—
 - (a) to encourage the disclosure of information in the public interest and to enhance possibility for the free flow of information.
 - (b) to ensure that the Government and public bodies are fully accountable to the public; and
 - (b) to ensure that private bodies are fully accountable to their members; and

- (c) to give the fullest possible scope to freedom of expression as guaranteed by section 20 of the Constitution while avoiding unjustified attacks on persons' reputations and invasions of their privacy.
- (2) Subject to subsection (1), in the interpretation of this Act regard shall be paid to the following principles—
 - (a) impediments to the free flow of information which is of public interest should be minimised.
 - (b) accountability on the part of the Government and public and private bodies can be secured only if they are open and transparent in the exercise of their functions;
 - (c) private bodies are accountable to their members and owners, and this accountability can be secured only if the private bodies are open and transparent in the exercise of their functions;
 - (d) freedom of expression, in so far as it comprises freedom to receive and impart ideas and information, cannot be exercised properly unless there is ready access to information;
 - (e) while persons are entitled to their reputations and to reasonable privacy—
 - (i) robust political debate, including questioning the character and ability of persons engaged in public affairs, is a necessary part of the democratic process;
 - (ii) the public has a legitimate interest in the private conduct of persons engaged in public affairs, to the extent that their private conduct reflects on their character and ability;
 - (iii) the public has a legitimate interest in knowing whether or not the affairs of private bodies of all kinds are being conducted honestly, efficiently and in accordance with the law;
 - (e) free and independent news media are a prerequisite to ensuring accountability on the part of the Government and public and private bodies, and to fostering and preserving democracy in Zimbabwe;
 - (f) the provisions of this Act which protect certain information from disclosure must not be used as a cloak to conceal illegality, misconduct or incompetence.
- (3) Everyone required or permitted to exercise functions under this Act shall pay regard to the principles set out in subsections (1) and (2) when exercising those functions.

4 Public and private bodies

- (1) The following are public bodies for the purposes of this Act—
 - (a) any Ministry, Department or office of the Government, including the Office of the President and Cabinet;
 - (b) the Senate and the House of Assembly;
 - (c) the Police Force, the Prison Service and any branch of the Defence Forces;
 - (d) any Commission established by the Constitution;
 - (e) the office or department of the Comptroller and Auditor-General;
 - (f) the office or department of the Ombudsman;

- (g) any local authority or similar body established by or under any enactment;
- (h) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister or any other such body corporate or by a Commission established by the Constitution;
- (i) any company whose shares are listed on an official list kept by a securities exchange registered under the Securities Act [*Chapter 24:25*];
- (j) any company the majority of whose shares are held by—
 - (i) the State or by a person on behalf of the State; or
 - (ii) a body corporate referred to in paragraph (h);
- (k) any organisation or association that carries out a function of a public nature—
 - (i) in terms of an enactment; or
 - (ii) under a contract with another public body;
 but only to the extent that it carries out that function;
- (l) any other body corporate declared in terms of subsection (3) to be a public body.
- (2) For the purposes of this Act, a private body is any body corporate that carries on a profession, trade or business, to the extent that it carries on the trade, profession or business.
- (3) The Minister, by notice in the *Gazette*, may declare—
 - (a) any office, organisation or body to be a public body for the purposes of this Act;
 - (b) any body corporate, other than a public body, to be a private body for the purposes of this Act:

Provided that—

- (i) before making any such declaration, the Minister shall afford the office, organisation or body concerned an adequate opportunity to make representations in the matter and shall give due consideration to any representations made by it;
- (ii) the Minister shall not make such a declaration, and shall not amend or repeal any such declaration, unless the House of Assembly has by resolution authorised him or her to do so.

5 When body is deemed to hold information

A public or private body is deemed to hold information if—

- (a) it possesses, keeps or has the information, otherwise than on behalf of another person; or
 - (b) another person possesses, keeps or has the information on behalf of the public or private body;
- whether the information is recorded or is in any other form.

6 Application of Act in relation to other legislation

(1) Subject to the Constitution, this Act applies to the publication of information by public and private bodies, and to the disclosure of information by them, notwithstanding any

other enactment regulating, prohibiting or restricting the publication or disclosure of such information.

(2) This Act shall not be construed as limiting or restricting the publication or disclosure of information by public or private bodies under any other law.

PART II

INFORMATION COMMISSIONER

7 Establishment of the Office of Information Commissioner

- (1) For the purpose this Act, there is hereby established an office, to be known as the office of the Information Commission, which shall be a body corporate capable of suing and being sued in its own name and, subject to this Act, of performing all acts that bodies corporate may by law perform.
- (2) The office shall consist of the Information Commissioner who shall be a person of high repute and unquestionable integrity, appointed by the President from a list of five nominees submitted by the Committee on Standing Rules and Orders.

8 Terms of Office and Conditions of Service of Information Commissioner

- (1) Subject to this Act, an Information Commissioner shall hold office for five years.
- (2) An Information Commissioner shall continue in office after the expiry of his/her term until he / she has been re-appointed or his or her successor has been appointed.
- (3) A retiring Information Commissioner is eligible for re-appointment for one other second and final term.

9 General functions of Information Commissioner under this Act

In addition to the other functions conferred or imposed on him or her by this Act, the Information Commissioner shall be responsible for—

- (a) monitoring and reporting on the compliance by public bodies with their obligations under this Act;
- (b) recommending changes to the procedures and management systems of public bodies, to facilitate or ensure their compliance with this Act;
- (c) co-operating with and training public officers and other persons on the right to information and the effective implementation of this Act;
- (e) publicise the requirements of this Act and the rights of persons under it.

10 Guides and codes of practice

(1) As soon as practicable after the date of commencement of this Act, the Information Commissioner shall prepare a guide in each of the principal languages in use in Zimbabwe, informing the public in clear and simple terms how they may exercise their rights under this Act, and shall ensure that the guides are disseminated widely throughout Zimbabwe.

(2) From time to time the Information Commissioner may issue codes of practice to public and private bodies, giving advice and instructions on—

- (a) the keeping, management, dissemination and disposal of information and records; and

(b) the transfer of records to the National Archives.

(3) The Information Commissioner shall ensure that the guides and codes of practice prepared and issued in terms of this section are kept up to date and that adequate supplies of them are available to interested persons.

11 Reports by Information Commissioner

The Information Commissioner shall report annually to the House of Assembly on the compliance by public and private bodies with their obligations under this Act.

12 Investigations by Information Commissioner

(1) The Information Commissioner may from time to time conduct investigations into the compliance by public and private bodies generally, or by any class of such bodies or by any particular such body, with their obligations under this Act.

(2) In an investigation under subsection (1), the Information Commissioner may examine any information or record to which this Act applies, and no such information or record shall be withheld from him or her on any ground.

13 Appeal against enforcement order

(1) A public or private body that is aggrieved by an order of the Information Commissioner under section *forty-nine* may appeal against it to the Magistrate Court, and on such an appeal the Magistrate Court may confirm, vary or set aside the order concerned or give such other order or direction in the matter as the court considers just.

(2) An appeal under subsection (1) shall be filed with the Magistrate Court within five days after the public or private body was notified of the order appealed against.

14 Enforcement of enforcement order

(1) If the Information Commissioner considers that a public or private body has failed to comply with an order under section *forty-nine*, and the order is no longer subject to appeal, the Information Commissioner may apply to the High Court for an order under subsection (2).

(2) In an application under subsection (1), the High Court may do all or any of the following—

- (a) direct the public or private body concerned to comply with the Information Commissioner's order;
- (b) punish the public or private body concerned for its failure to comply with the Information Commissioner's order;
- (c) give such other order or direction as, in the court's opinion, will ensure enforcement of the Information Commissioner's order.

(3) For the purposes of paragraph (b) of subsection (2), the High Court shall have the same powers of punishment as if the public or private body concerned were guilty of contempt of court.

PART III

PROMOTION OF OPENNESS IN PUBLIC BODIES

15 Public bodies to publish information

- (1) Subject to this Act, every public body shall ensure that information is published about its structure, functions, processes, decisions and policies.
- (2) Information published by a public body in terms of subsection (1) shall include—
 - (a) a description of the body's structure, functions, duties and finances; and
 - (b) any services the body provides directly to members of the public; and
 - (c) outlines of any procedures available to members of the public for lodging complaints regarding actions or failures to act by the body; and
 - (d) a guide to the body's 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; and
 - (e) a description of the functions of the body's senior officers, and the procedure it follows in making decisions; and
 - (f) any regulations, policies, rules, guides or manuals regarding the carrying out of the body's functions; and
 - (g) the content of all decisions and policies the body has adopted which affect the public, together with the reasons for them and any authoritative interpretations of them; and
 - (h) any procedures by which members of the public may make representations or otherwise influence the formulation of the body's policy or the exercise of its powers.
- (3) Every public body shall ensure that the information referred to in subsections (1) and (2) is published for the first time as soon as possible and in any event—
 - (a) not later than six months after the public body was established; or
 - (b) in the case of a public body that was established before the date of commencement of this Act, not later than six months after that date;

and shall ensure that the information is kept up to date and republished at least once a year.

- (4) The Information Commissioner may give any public body directions as to the manner in which it should comply with the requirements of this section, including directions requiring the public body to publish information in accordance with—
 - (a) a publication scheme approved by the Information Commissioner;
 - (b) a model publication scheme prepared or adopted by the Information Commissioner;
 and, subject to this Act, the public body shall comply with any such direction.

16 Maintenance of information by public bodies

Every public body shall ensure that information held by it is maintained in a manner which facilitates the right to information, as provided for in this Act, and in accordance with any code of practice issued by the Information Commissioner in terms of section *ten*.

17 Information officers

(1) Every public body shall designate at least one member of its staff to be an information officer and shall ensure that members of the public—

- (a) are able to easily ascertain the information officer's name(s), function and contact details; and
- (b) have ready access to the information officer(s).

(2) The information officer of a public body shall—

- (a) be responsible for promoting within the public body the best possible practices in relation to the recording, maintenance, archiving and dissemination of information; and
- (b) serve as a contact within the public body for receiving requests for information, for assisting persons seeking to obtain information and for receiving complaints regarding the performance of the public body relating to information disclosure;

in addition to any other functions conferred or imposed upon him or her in terms of this Act.

(3) Where a public body has departments, branches or offices in two or more provinces, the body shall designate at least one member of its staff to be the information officer for each province in which it has a department, branch or office, and the person(s) so designated shall perform the functions of the public body's information officer(s) within the province concerned.

18 Reports to Information Commissioner

(1) As soon as possible after the end of each year, and in any event not later than the 30th April in the following year, the information officer of every public body shall submit a report to the Information Commissioner on the public body's compliance with this Act during that year.

(2) A report in terms of subsection (1) shall include information on—

- (a) the number of requests for information received, granted in full or in part, and refused by the public body; and
- (b) how often and which sections of the Act were relied upon by the public body to refuse requests for information; and
- (c) appeals from refusals by the public body to communicate information; and
- (d) fees charged by the public body for requests for information; and
- (e) the public body's activities pursuant to sections *twenty-one*, *twenty-two* and *twenty-three*.

(3) The Information Commissioner shall ensure that every report submitted in terms of subsection (1) is laid before the House of Assembly on one of the ten days that the House first sits after the Information Commissioner received the report.

PART IV

ACCESS TO INFORMATION HELD BY PUBLIC AND PRIVATE BODIES

19 Right to information

(1) Except as otherwise provided in this Act, every person has a right of access to—

- (a) information held by the state; and
 - (b) information held by every public body; and
 - (c) information held by a private body, where the information is necessary for the exercise or protection of a right.
- (2) Any person making a request for information to a public body is entitled, subject to this Act—
- (a) to be informed without delay whether or not the public body holds that information or any record from which that information may be derived; and
 - (b) if the public body does hold that information, to be provided with the information without delay.
- (3) Any person making a request for information to a private body which holds information necessary for the exercise or protection of a right is entitled, subject to this Act, to be provided with that information without delay.

20 Request for information

- (1) Subject to this section, a request for information for the purposes of subsections (2) and (3) of section *nineteen* shall be made in writing to—
- (a) the information officer of the public body concerned; or
 - (b) a responsible officer of the private body concerned;

as the case may be, and shall give sufficient detail regarding the information sought to enable an experienced officer of the body concerned to identify, with reasonable effort, whether or not the body holds the information.

(2) A request for information to a public body that has departments, branches or offices in two or more provinces may be made either to the information officer at the body's head office or to any provincial information officer.

(3) A request for information made to a private body for the purposes of subsection (3) of section *nineteen* shall identify the right the applicant is seeking to exercise or protect and the reasons why the information is required to exercise or protect that right.

(4) Where a request for information does not comply with subsection (1), (2) or (3), the officer of the body concerned who receives the request shall render to the applicant such reasonable assistance, free of charge, as may be necessary to enable the request to comply with that subsection.

(5) Without derogation from subsection (4), where an applicant is unable, because of illiteracy or disability, to make a written request to a public or private body for information, he or she may make an oral request and the officer who receives it shall reduce it to writing, including his or her name and position within the body, and give a copy of it to the applicant.

(6) In a request for information the applicant may indicate the following preferences as to the form or manner in which the information sought is communicated to him or her—

- (a) a true copy of any record of the information in permanent or other form;
- (b) an opportunity to inspect any record of the information, where necessary using equipment normally available to the public or private body which holds the information;

- (c) where the public or private body does not have the necessary reproduction equipment, the applicant shall be afforded the opportunity to use his own equipment;
- (d) a written transcript of the information contained in a sound or visual form;
- (e) a transcript of the information, in print, sound or visual form, where such a transcript is capable of being produced using equipment normally available to the public or private body which holds the information;
- (f) a transcript of the information, where it is recorded in shorthand or other codified form.

(7) For the purposes of subsection (1), a request for information is to be treated as made in writing where the text of the request—

- (a) is transmitted by electronic means; and
- (b) is received in legible form; and
- (c) is capable of being printed or otherwise recorded and used for subsequent reference.

21 Time-limits for response to request for information

(1) Subject to this section, a public or private body shall respond to a request for information as soon as reasonably possible and in any event within three working days after it received the request unless the applicant consents to an extension of that period.

(2) Subject to this section, where a request for information appears reasonably necessary to safeguard the life or liberty of a person, the public or private body shall respond to it as soon as reasonably possible and in any event within twelve hours after receiving the request, unless the applicant consents to an extension of that period.

(3) Where a request for information—

- (a) is for a large number of records or requires a search through a large number of records; and
- (b) to respond within the period specified in subsection (1) or (2), as the case may be, would unreasonably interfere with the activities of the public or private body to which the request has been made;

the body concerned may, by written notice to the applicant within the period specified in subsection (1) or (2), as the case may be, extend the period to the extent strictly necessary to enable the body to comply with the request.

(4) If a fee is payable for the provision of information by a public or private body, the body—

- (a) shall ensure that, within the period specified in subsection (1) or (2), as the case may be, the applicant is informed of the fee and the manner in which it is payable; and
- (b) may withhold the information until the fee has been paid.

(5) If a public or private body fails to respond to a request for information within the time allowed by this section, it shall be deemed to have refused to provide the information sought by the applicant.

22 Form and content of response to request for information

(1) The response of a public or private body to a request for information shall be in writing unless the applicant consents to it being made in some other form, and in its response the body shall, subject to this Act, provide the information requested by the applicant:

Provided that if the applicant, in terms of subsection (6) of section *twenty*, has indicated a preference as to the form or manner in which the information is communicated, the body shall comply with that request unless compliance would be impossible.

(2) Where a public or private body, in accordance with Part V, refuses to provide any information which it holds, it shall state in its response to a request for that information—

- (a) adequate reasons for its refusal to provide the information and shall inform the applicant of any right of appeal he or she may have against the refusal.

23 Response to request for information that is readily obtainable elsewhere

(1) Where a public or private body receives a request for information which the applicant can readily obtain by inspecting a register or roll that is open to public inspection, the body may respond to the request by informing the applicant, in writing, of that fact and of the place where the register or roll may be inspected.

(2) For the purposes of subsection (1), information shall be regarded as readily obtainable by an applicant from a register or roll if—

- (a) the register or roll is readily accessible to the applicant; and
- (b) the information can be obtained or easily ascertained from an inspection of the register or roll; and
- (c) any fee charged for inspecting the register or roll is reasonable.

(3) Where a public or private body receives a request for information that is contained in or readily ascertainable from an official document, the body may respond to the request by informing the applicant, in writing of that fact and—

- (a) if the document is open to public inspection or available for purchase by the public, informing the applicant where it may be inspected or purchased; or
- (b) providing the applicant with a copy of the document.

(4) Where a public or private body which operates as a library or archive receives a request for information that is contained in a document that forms part of the library or archive, the body may respond to the request by inviting the applicant to obtain the information from that document.

24 Fees

(1) Subject to this section, a public or private body may make the provision of information pursuant to a request conditional upon the applicant's paying a reasonable fee, but any such fee shall not exceed the actual cost of searching for, preparing and providing the information.

(2) A public body shall not require a fee under subsection (1) where the cost of collecting the fee would exceed the amount of the fee.

- (3) Regulations in terms of section *sixty* may provide for—

- (a) the manner in which fees under this section are to be calculated;
- (b) the maximum amount of any fee under this section;

and may prohibit the charging of fees in prescribed cases.

25 Duty of public bodies on receipt of request for information not held by them

(1) Where a public body receives a request for information not held by that body but the body's information officer knows of another public body that does hold the information, the information officer shall, as soon as reasonably possible and in any event within the appropriate period specified in section *twenty-one*, either—

- (a) transfer the request to that other public body and inform the applicant of the transfer; or
- (b) inform the applicant of the identity of that other public body;

whichever is likely to ensure the applicant more rapid access to the information.

(2) Where a request for information has been transferred to a public body in terms of subsection (1), the request shall be deemed to have been made to that public body and the period within which the public body must respond to the request shall begin to run from the date of the transfer.

(3) Where a request for information is received by—

- (a) a provincial information officer and the information sought is held at the public body's head office or in some other province, the provincial information officer shall transfer the request to the information officer for the public body's head office or to the appropriate provincial information officer, as the case may be;
- (c) the information officer for a public body's head office, and the information sought is held at a department, branch or office of the public body in a province, the information officer shall transfer the request to the appropriate provincial information officer.

26 Personal information

(1) Subject to subsection (2) and to section *thirty-eight*, a public or private body may refuse—

- (a) to indicate whether or not it holds information; or
- (b) to provide information;

where to indicate whether or not it holds the information or to provide the information, as the case may be, would entail disclosing personal information about an individual who is a third party, and would constitute an unreasonable breach of the third party's privacy.

(2) Subsection (1) shall not apply where—

- (a) the third party has consented to the disclosure of the information; or
- (b) the applicant is the third party's guardian, tutor or legal representative or is the executor of the third party's deceased estate; or
- (c) the third party is or was a public officer or official of a public body and the information relates to his or her function as a public officer or such an official, as the case may be.

PART V
EXEMPTIONS FROM DISCLOSURE

27 Legal privilege

(1) Subject to subsection (3) and to section *thirty-eight*, a public or private body may refuse to indicate whether or not it holds information if to do so would involve the disclosure of information that is privileged from disclosure or production in legal proceedings.

(2) Subject to subsection (3) and to section *thirty-eight*, a public or private body may refuse to provide information if the information is privileged from disclosure or production in legal proceedings.

(3) Subsections (1) and (2) shall not apply if the person entitled to the privilege has waived it.

28 Professional confidentiality

(1) In this section—

“professional body” means a public or private body which—

- (a) consists wholly or mainly of professional persons; or
- (b) is established to represent the interests of any class of professional persons; or
- (c) whose functions consist principally in the carrying out of work which, under any enactment, is reserved for a class of professional persons or must be carried out by a professional person;

“professional person” means—

- (a) a person registered under the Architects Act [*Chapter 27:01*], the Chartered Secretaries (Private) Act [*Chapter 27:03*], the Estate Agents Act [*Chapter 27:05*], the Land Surveyors Act [*Chapter 27:06*], the Legal Practitioners Act [*Chapter 27:07*], Public Accountants and Auditors Act [*Chapter 27:12*], the Quantity Surveyors Act [*Chapter 27:13*], the Veterinary Surgeons Act [*Chapter 27:15*], the Zimbabwe Institution of Engineers (Private) Act [*Chapter 27:16*], the Health Professions Act [*Chapter 27:19*], the Estate Administrators Act [*Chapter 27:20*] or the Social Workers Act [*Chapter 27:21*]; or
- (b) a person registered under any enactment which provides for the conduct of persons engaged in any profession, trade or calling and which is specified for the purposes of this definition by the Minister by notice in the *Gazette*.

(2) Subject to subsection (3) and to section *thirty-eight*, a professional body may refuse—

- (a) to indicate whether or not it holds information; or
- (b) to provide information;

where to indicate whether or not it holds the information or to provide the information, as the case may be, would entail disclosing information about a person who is a third party in contravention of any code of conduct applicable to the professional persons who constitute or are represented by the professional body or whose functions are carried out by the professional body.

- (3) Subsection (2) shall not apply where—
- (a) the third party has effectively consented to the disclosure of the information; or
 - (b) the applicant is the third party's guardian or next of kin or the executor of the third party's deceased estate; or
 - (c) the third party has been deceased for more than twenty years; or
 - (d) the third party is or was a public officer or official of a public body and the information relates to his or her function as a public officer or such an official, as the case may be.

29 Commercial and confidential information

Subject to section *thirty-eight*, a public or private body may refuse to provide information if—

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

30 Health and safety

Subject to section *thirty-eight*, a public or private body may refuse—

- (a) to indicate whether or not it holds information; or
- (b) to provide information;

where to indicate whether or not it holds the information or to provide the information, as the case may be, would be likely to endanger the life, health or safety of any individual.

31 Law enforcement

Subject to section *thirty-eight*, a public or private body may refuse—

- (a) to indicate whether or not it holds information; or
- (b) to provide information;

where to indicate whether or not it holds the information or to provide the information, as the case may be, would be likely to cause serious prejudice to—

- (i) the prevention or detection of crime; or
- (ii) the apprehension or prosecution of offenders against any law; or
- (iii) the administration of justice; or
- (iv) the assessment or collection of any tax, rate or duty; or
- (v) the operation of immigration controls.

32 Defence and security

Subject to section *thirty-eight*, a public or private body may refuse—

- (a) to indicate whether or not it holds information; or
- (b) to provide information;

where to indicate whether or not it holds the information or to provide the information, as the case may be, would be likely to cause serious prejudice to the defence or national security of Zimbabwe.

33 Commercial or Financial Interests

(1) Subject to subsection (2) and to section *thirty-eight*, a public or private body may refuse—

- (a) to indicate whether or not it holds information; or
- (b) to provide information;

where to indicate whether or not it holds the information or to provide the information, as the case may be, would be likely to cause serious prejudice to—

- (i) the legitimate commercial or financial interests of a public body.

(2) Subsection (1) shall not apply to a request for information concerning the results of any product or environmental testing, where the information, if disclosed, would reveal a serious risk to public safety or the environment.

34 Policy making and operations of public bodies

(1) Subject to subsection (2) and to section *thirty-eight*, a public or private body may refuse—

- (a) to indicate whether or not it holds information; or
- (b) to provide information;

where to indicate whether or not it holds the information or to provide the information, as the case may be, would be likely to—

- (i) cause serious prejudice to the effective formulation or development of policy by the Government; or
- (ii) frustrate the success of a governmental policy, by premature disclosure of that policy; or
- (iii) seriously undermine deliberative processes within a public body by inhibiting the free and frank provision of advice or exchange of views; or
- (iv) seriously undermine the effectiveness of a testing or auditing procedure used by a public body.

(2) Subsection (1) shall not apply to the disclosure of facts, technical data or statistical information.

35 Contempt of court

Subject to section *thirty-eight*, a public or private body may refuse—

- (a) to indicate whether or not it holds information; or

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(b) to provide information;

if to do so would constitute contempt of court.

36 Information accessible to applicant by other means

(1) A public or private body may refuse to provide information which is reasonably accessible to the applicant otherwise than under this Act.

(2) For the purposes of subsection (1), information shall be regarded as reasonably accessible to an applicant—

- (a) if it is information which any person is obliged by any other enactment to provide to members of the public on request; or
- (b) even though it is accessible only on payment, where the payment is no more than is reasonably necessary to cover the cost of making the information accessible.

37 Information intended for future publication.

(1) A public or private body may refuse to provide information in response to a request for it if—

- (a) at the time of the request the body is holding the information with a view to its publication, whether by the body or any other person, at some future date, whether determined or not; and
- (b) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

(2) A public or private body may refuse to indicate whether or not it holds information if to do so would involve the disclosure of any information that need not be provided in terms of subsection (1).

38 Cases where information exempted under Part V must be disclosed

Notwithstanding any other provision of this Part, a public or private body shall not refuse—

- (a) to indicate whether or not it holds information; or
- (b) to provide information;

in terms of this Part—

- (i) unless the harm to the protected interest outweighs the public interest in disclosure; or
- (ii) where the information is already known or available to the public generally or to a substantial section of the public.

39 Severability

(1) Where an applicant makes a request for information contained in a document which contains some information that must or need not be provided in terms of this Part, the public or private body which holds the record shall provide the applicant with whatever portion of the requested information it must provide in terms of this Act, if that information can reasonably be severed from the rest.

(2) Where a public or private body provides an applicant with a document from which any information has been deleted or which has been altered in any other way to comply with

subsection (1), the body shall inform the applicant of the fact of the alteration and of the grounds for it.

PART VI

APPEALS

40 Appropriate magistrates courts

- (1) A court of a magistrate for the province within which—
- (a) a request for information was made to a public or private body; or
 - (b) an applicant who has made a request for information resides, carries on business or is employed; or
 - (c) is situated the head office of a public or private body to which a request for information was made;

shall be an appropriate magistrates court for hearing and determining any appeal in terms of this Part arising out of the request for information concerned.

(2) Where more than one magistrates court would be an appropriate magistrates court for the hearing and determination of any appeal in terms of subsection (1), the appeal may be lodged with any one of those courts.

41 Right of appeal and forums for appeals

- (1) A person who is aggrieved at—
- (a) a refusal by a public or private body to indicate whether or not it holds information; or
 - (b) a refusal or failure by a public or private body to provide information; or
 - (c) the amount of a fee charged by a public or private body for the provision of information; or
 - (d) a failure by a public or private body to communicate information in the form requested, in contravention of section *twenty-two*;

may, subject to this Part, appeal against the refusal, failure or fee, as the case may be, either to the Information Commissioner or to an appropriate magistrates court.

- (2) An appellant who has lodged an appeal with—
- (a) the Information Commissioner, shall not lodge a further appeal with an appropriate magistrates court in connection with the same request for information unless, with the leave of the Information Commissioner and the consent of the other parties to the appeal, he or she has withdrawn the earlier appeal;
 - (b) an appropriate magistrates court, shall not lodge a further appeal with the Information Commissioner or another magistrates court in connection with the same request for information unless, with the leave of the court and the consent of the other parties to the appeal, he or she has withdrawn the earlier appeal.

42 Time within which appeals must be lodged

(1) An appeal against a refusal by a public or private body to indicate whether or not it holds information, or to provide information, shall be lodged within one month after—

- (a) the appellant was notified of the body's refusal; or
- (b) the expiry of the period within which the body was required by section *twenty-one* to respond to the appellant's request for information;

as the case may be.

(2) An appeal against the amount of a fee charged by a public or private body for the provision of information shall be lodged within fourteen days after the appellant was notified of the fee.

(3) An appeal against a failure by a public or private body to communicate information in the form requested shall be lodged within fourteen days after the appellant became aware or ought to have become aware of the refusal.

(4) Notwithstanding subsections (1), (2) and (3), the Information Commissioner or an appropriate magistrates court may for good cause shown extend the period within which an appeal is lodged.

43 Time-limits within which appeals must be determined

(1) Subject to subsection (2), the Information Commissioner or an appropriate magistrates court, as the case may be, shall determine every appeal as soon as is reasonably possible, and in any case within fourteen days after the appeal was lodged.

(2) The parties to an appeal may consent to an extension of the period specified in subsection (1).

(3) If an appeal is not determined within the fourteen-day period specified in subsection (1), and the parties have not consented to an extension of the period, the appeal shall be deemed to have been allowed but the parties shall have a further right of appeal under section *forty-eight*.

44 Forms and procedure for appeals

(1) The Information Commissioner may prescribe or specify the form in which appeals are to be lodged with him or her in terms of section *forty-one*:

Provided that—

- (i) such a form shall not place an undue burden upon appellants;
- (ii) the Information Commissioner shall ensure that copies of the form are kept available, free of charge, for appellants to use.

(2) The procedure to be followed in an appeal to—

- (a) the Information Commissioner, shall be as determined from time to time by the Information Commissioner;
- (b) an appropriate magistrates court, shall be as prescribed in rules of court made under the Magistrates Court Act [*Chapter 7:10*]:

Provided that—

- (i) the procedure so determined or prescribed shall be simple and informal to ensure that the parties have an adequate opportunity to be heard or to make representations, and that appeals are dealt with fairly and as expeditiously as possible in accordance with the principles of this Act;

- (ii) in any case not prescribed as provided in paragraph (b), an appropriate magistrates court shall act in whatever way it considers will ensure that the appeal is dealt with fairly and expeditiously in accordance with the principles of this Act.

45 Burden of proof in appeals

In every appeal, the burden of proof shall be on the public or private body concerned to show that it acted in accordance with the principles of this Act and carried out its obligations under Part III.

46 Representation of parties in appeals

In an appeal, every party may—

- (a) appear in person; or
- (b) be represented by—
 - (i) a legal practitioner; or
 - (ii) a media or information consultant appointed in writing by the party;
- or
- (c) make written representations to the Information Commissioner or the appropriate magistrates court, as the case may be.

47 Decision on appeal

(1) The Information Commissioner or an appropriate magistrates court may summarily reject appeals—

- (a) which are frivolous, vexatious or clearly unwarranted; or
- (b) where the appellant without good cause has failed to use any effective and timely internal appeals mechanisms provided by the public or private body concerned.

(2) After considering any evidence adduced and representations made in an appeal, the Information Commissioner or the appropriate magistrates court, as the case may be, may do any one or more of the following—

- (a) reject the appeal;
- (b) require the public or private body concerned to take such steps as the Information Commissioner or the court considers necessary to carry out the body's obligations under Part IV;
- (c) order the public or private body concerned to compensate the appellant for any loss or other detriment suffered;
- (d) in the case of an appropriate magistrates court, give such order as to the costs of the appeal as the court considers appropriate;
- (e) if the Information Commissioner or the court considers that any member, officer or employee of the public or private body concerned was guilty of—
 - (i) a wilful disregard for the body's obligations under Part IV; or
 - (ii) gross negligence in carrying out or failing to carry out the body's obligations under Part III;

recommend that disciplinary proceedings be instituted against that member, officer or employee:

Provided that no such recommendation shall be made unless the member, officer or employee has been given an adequate opportunity to make representations in the matter.

(3) The Information Commissioner or the appropriate magistrates court, as the case may be, shall cause notice of the decision in any appeal to be given—

- (a) to both the appellant and the public or private body concerned; and
- (b) where the Information Commissioner or the court has made a recommendation referred to in paragraph (e) of subsection (2), to the member, officer or employee in respect of whom the recommendation was made;

and in that notice shall notify them of their right of appeal against the decision.

(4) An order of compensation made by an appropriate magistrates court in terms of paragraph (c) of subsection (2) shall have effect as a civil judgment of the court against the public or private body concerned.

(5) Where the Information Commissioner makes an order of compensation in terms of paragraph (c) of subsection (2), any interested party may lodge a copy of the order with the clerk or registrar of an appropriate magistrates court, who shall record it, and thereupon it shall have the same effect as a civil judgment of the appropriate magistrates court against the public or private body concerned.

(6) Where an appropriate magistrates court has made a recommendation referred to in paragraph (e) of subsection (2), the court shall cause the Information Commissioner to be notified of the recommendation.

48 Appeals against decisions of Information Commissioner and appropriate magistrates court

(1) Any person aggrieved by a decision of the Information Commissioner or an appropriate magistrates court in an appeal in terms of this Part may appeal against that decision to the High Court and, subject to this section, the appropriate provisions of the High Court Act [*Chapter 7:06*] and the Magistrates Court Act [*Chapter 7:10*] shall apply in relation to any such appeal.

(2) For the avoidance of doubt, it is declared that a member, officer or employee of a public or private body in respect of whom a recommendation has been made in terms of paragraph (e) of subsection (2) of section *forty-seven* is a person aggrieved by a decision for the purposes of subsection (1).

(3) An appeal under subsection (1) shall be filed with the High Court within fourteen days after the appellant was notified of the decision appealed against.

(4) In an appeal under subsection (1), the High Court may confirm, vary or set aside the decision appealed against and may give such other order or direction in the matter as the court considers will give effect to the provisions of this Act and in particular to the principles set out in section *twenty*.

49 Enforcement orders

(1) If the Information Commissioner is satisfied, whether after an investigation or for any other good cause, that a public or private body has failed to comply with any of its obligations under Part IV, the Information Commissioner may order the body to take such steps as he or she considers are necessary to rectify the failure, including—

- (a) the appointment of an information officer;
- (b) the publication of information or classes of information;
- (c) the alteration of its practices in relation to the keeping, management and destruction of records or the transfer of its records to the National Archives;
- (d) the provision of training for its officials on the right to information;
- (e) the provision of reports to the Information Commissioner.

(2) Before making an order under subsection (1), the Information Commissioner shall afford the public or private body concerned an adequate opportunity to make representations in the matter.

(3) The Information Commissioner shall cause notice of an order under subsection (1) to be given to the public or private body concerned, and in that notice shall notify the body of its right of appeal against the order.

50 Enforcement of decisions on appeal

(1) Every public or private body shall—

- (a) subject to section *forty-eight*, comply with a decision of the Information Commissioner or an appropriate magistrates court given on an appeal in terms of section *forty-one*;
- (b) subject to the High Court Act [*Chapter 7:06*] and the Supreme Court Act [*Chapter 7:13*], comply with a decision of the High Court given on a further appeal in terms of section *forty-eight*.

(2) If the Information Commissioner or an appellant considers that a public or private body has failed to comply with a decision given by the Information Commissioner on appeal, the Information Commissioner or the appellant, as the case may be, may apply to the High Court for an order under subsection (3).

(3) In an application under subsection (2), the High Court may do all or any of the following—

- (a) direct the public or private body concerned to comply with the Information Commissioner's decision;
- (b) punish the public or private body concerned for its failure to comply with the Information Commissioner's decision;
- (c) give such other order or direction as, in the court's opinion, will ensure enforcement of the Information Commissioner's decision.

(4) For the purposes of paragraph (b) of subsection (3), the High Court shall have the same powers of punishment as if the public or private body concerned were guilty of contempt of court.

(5) A decision given by an appropriate magistrates court on appeal in terms of this Part shall be enforceable in the same way as any other judgment given by the court in civil proceedings.

51 Action to be taken where Information Commissioner or appropriate magistrates court recommends disciplinary proceedings

(1) Where the Information Commissioner or an appropriate magistrates court has recommended, in terms of paragraph (e) of subsection (2) of section *forty-seven*, that disciplinary proceedings be instituted against a member, officer or employee of a public or private body, the body concerned shall without delay institute such proceedings and, upon their conclusion, notify the Information Commissioner of their result and of any action taken against the member, officer or employee as a consequence of the proceedings.

(2) Disciplinary proceedings contemplated by this section include, in the case of a director of a company, removing the director in terms of section 175 of the Companies Act [*Chapter 24:03*].

PART VII

EXEMPTION FROM LIABILITY FOR CERTAIN DISCLOSURES

52 Non-liability for disclosure of information in terms of this Act

(1) Where, in response to a request for information, a public or private body provides an applicant with information which it is obliged to provide in terms of this Act, no liability for defamation, *injuria*, breach of confidence or infringement of copyright shall attach to—

- (a) the public or private body concerned or to any of the body's members, employees or agents; or
- (b) the author of the information or any person who supplied the information to the public or private body concerned;

as a result of the provision of the information to the applicant.

(2) Where in response to a request for information a public or private body provides an applicant with information in terms of this Act, the body shall not be regarded as authorising or approving—

- (a) for the purposes of the law of defamation, *injuria* or breach of confidence, the publication of the information by the applicant; or
- (b) the doing by the applicant of anything that constitutes an infringement of any copyright in the information.

53 Non-liability for disclosure of wrongdoing

(1) In this section—

“wrongdoing” includes—

- (a) the commission of an offence or delicts;
- (b) a failure to comply with a legal obligation;

- (c) dereliction of duty on the part of a public officer;
- (d) serious maladministration on the part of any officer, employee or agent of a public or private body.

(2) No person shall be subject to any legal, administrative or employment-related sanction for publishing, providing or disclosing information—

- (a) regarding wrongdoing; or
- (b) which discloses a serious threat to justice, health, safety or the environment;

where the person did so in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment, as the case may be.

(3) Subsection (2) shall apply whether or not the person concerned breached a legal obligation or an obligation arising out of his or her employment by publishing, providing or disclosing the information.

54 Good faith disclosures

(1) No person shall be subject to any legal, administrative or employment-related sanction for publishing, providing or disclosing any information, where he or she did so in good faith and in the reasonable belief that the publication or disclosure was required in terms of this Act.

(2) Subsection (1) shall apply whether or not the person concerned breached a legal obligation or an obligation arising out of his or her employment by publishing, providing or disclosing the information.

55 Information supplied for purposes of investigation by Information Commissioner

(1) Information published, provided or disclosed in connection with an investigation by the Information Commissioner under this Act shall be privileged, and the person who published, provided or disclosed the information shall not be liable to civil or criminal proceedings for defamation or *injuria* unless he or she supplied false information knowing it to be false or not having reasonable grounds for believing it was or might be true.

PART VIII

DEFAMATION AND OTHER PROCEEDINGS FOR VERBAL INJURY

56 Interpretation in Part VIII

In this Part—

“defendant” means a person against whom proceedings for verbal injury are instituted and, in relation to criminal proceedings, means an accused person;

“news medium” means a printed publication, broadcast or other medium of communication which publishes or broadcasts news of current events and additionally, or alternatively,

commentaries on those events, whether or not it also publishes or broadcasts other material;

“proceedings for verbal injury” means civil or criminal proceedings arising out of the publication or broadcasting in a news medium of an allegedly false or injurious allegation against any person;

“report of public proceedings” means a report published or broadcast in a news medium concerning events occurring or statements made—

- (a) in the Senate or the House of Assembly; or
- (b) in the relevant portfolio committee; or
- (c) at a meeting of any local or authority or statutory body; or
- (d) in proceedings before any court or tribunal; or
- (e) at any public meeting or gathering.

57 Additional defences in proceedings for verbal injury

(1) Subject to this section, in any proceedings for verbal injury it shall be a defence for the defendant to show that either—

- (a) he or she was unaware of the allegedly false or injurious allegation and was not negligent in being so unaware; or
- (b) upon a consideration of all the circumstances of the case as they appeared at the time the allegedly false or injurious allegation was published or broadcast—
 - (i) it was reasonable to publish or broadcast the allegation in the manner in which it was published or broadcast, as the case may be; and
 - (ii) the person responsible for publishing or broadcasting the allegation was not negligent in doing so;

and, in relation to a false allegation, that he or she was unaware of its falsity.

(2) In determining whether a defendant has established the defence set out in paragraph (b) of subsection (1), a court shall have regard to the following considerations, in addition to any others that may be relevant—

- (a) the importance of freedom of expression to society as a whole and the right and duty of news media to uphold and exercise that right, weighed against the right of persons to preserve their reputations and dignity; and
- (b) whether, in the light of the principles referred to in section *three*, the public had an interest in learning of the allegation that was published or broadcast; and
- (c) the nature of the allegation and the tone in which it was written or presented; and
- (d) the information on which the allegation was based and the reliability of its source; and
- (e) any steps that were taken to verify the information on which the allegation was based and, if the allegation was published or broadcast before such steps were taken, the reason why it was so published or broadcast; and
- (f) whether the person against whom the allegation was made was given an opportunity to respond to it.

(4) Where proceedings for verbal injury arise out of an allegation made in a publication or broadcast that is directed at or likely to be read, heard or received by a section of the public, the reference to “the public” in paragraph (b) of subsection (3) shall be construed as a reference to that section of the public.

(5) This section shall not be construed as—

- (a) preventing a court from extending the defence set out in subsection (1) to persons other than defendants in proceedings for verbal injury; or
- (b) limiting any other defence that may be open to a defendant in proceedings for verbal injury.

58 Interdicts preventing publication of allegedly defamatory matter by news media

In any proceedings in which a person seeks an interdict, whether interim or permanent, restraining the publication or broadcasting of an allegedly false or injurious allegation by a news medium, the court shall have regard to the following considerations, in addition to any others that may be relevant—

- (a) the importance of freedom of expression to society as a whole and the right and duty of news media to uphold and exercise that right, weighed against the right of persons to preserve their reputations and dignity; and
- (b) whether, in the light of the principles referred to in section *three*, the public has an interest in learning of the allegation that is to be published or broadcast; and
- (c) any defence that the news medium may have to any proceedings for verbal injury that the applicant for an interdict may bring if the allegation is published or broadcast; and
- (d) any other remedy that may be available to the person seeking the interdict, including—
 - (i) any right to reply to the allegation; and
 - (ii) if the allegation turns out to be false or injurious, any right to a correction or retraction and an apology;
 and
- (e) where an interim interdict is sought, the possibility that granting the interdict may permanently suppress the publication or broadcasting of the allegation by so delaying its publication or broadcasting as to render it non-newsworthy.

PART IX

GENERAL

59 Offences

(1) Any member, officer or employee of a public body who knowingly causes or permits the public body to contravene or fail to comply with—

- (a) a direction given to the public body by the Information Commissioner in terms of subsection (4) of section *fifteen*; or

- (b) any provision of a code of practice issued by the Information Commissioner in terms of section *nine* and applicable to the public body;

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(2) Any member, officer or employee of a public or private body who causes or permits the private body to contravene or fail to comply with an order given by the Information Commissioner in terms of section *twelve* shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(3) Without derogation from Part III of the Criminal Procedure and Evidence Act [*Chapter 9:07*]—

- (a) the Information Commissioner shall be regarded as having a substantial and peculiar interest in the outcome of the trial for the purposes of instituting a private prosecution against any public or private body for a contravention of subsection (1) or (2);
- (b) an applicant whose request for information has been refused or not responded to by a public or private body shall be regarded as having a substantial and peculiar interest in the outcome of the trial for the purposes of instituting a private prosecution against that body for a contravention of subsection (1) or (2).

60 Regulations

(1) The Minister, with the approval of the Information Commissioner, may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his or her opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) Regulations in terms of subsection (1) may provide for—
 - (a) the form and manner in which information may be provided under this Act;
 - (b) the submission by public and private bodies of reports to the on their compliance with this Act;
 - (c) the training of members, officers and employees of public and private bodies in the performance of their functions under this Act.

61 Repeal of Cap. 10:27

The Access to Information and Protection of Privacy Act [*Chapter 10:27*] is repealed

62 Repeal of Cap. 11:09

The Official Secrets Act [*Chapter 11:09*] is repealed.