



FEDERAL REPUBLIC OF NIGERIA

HOUSE OF REPRESENTATIVES

A BILL

FOR

AN ACT TO MAKE PUBLIC RECORDS AND INFORMATION MORE FREELY AVAILABLE, PROVIDE FOR PUBLIC ACCESS TO PUBLIC RECORDS AND INFORMATION, PROJECT PUBLIC RECORDS AND INFORMATION TO THE EXTENT CONSISTENT WITH THE PUBLIC INTEREST AND THE PROTECTION OF PERSONAL PRIVACY, PROTECT SERVING PUBLIC OFFICERS FROM ADVERSE CONSEQUENCES FOR DISCLOSING CERTAIN KINDS OF OFFICIAL INFORMATION WITHOUT AUTHORIZATION AND ESTABLISH PROCEDURES FOR THE ACHIEVEMENT OF THOSE PURPOSES AND RELATED PURPOSES THEREFORE, 2004

1st Reading	-	24th July, 2003
2nd Reading	-	30th July, 2003
Third Reading & Passage		2nd September 2004

FREEDOM OF INFORMATION BILL, 2004

ARRANGEMENT OF CLAUSES

CLAUSE:

1. Short Title
2. Right of access to records
3. Information about government institution
4. Request for access to records
5. Notice where access to records are requested
6. Transfer of request.
7. Extension of time limits
8. Where access is refused
9. Fees, etc. and action for waivers
10. Destruction or falsification of record.
11. Access to record
12. Where information is not available in discrete form
13. International affairs and defence
14. Law enforcement and investigations
15. Economic interest of the Federal Republic of Nigeria
16. Personal Information
17. Third Party information
18. Advice
19. Legal Practitioner / Client Privilege
20. Course or Research materials
21. Severability
22. Judicial review
23. Refusal by head of government and / or Public institution to disclose records.
24. Hearing in a summary way
25. Access to record by court
26. Court to take precautions against disclosing information
27. Burden of proof
28. Order to disclose information
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30. Protection of Public Officers, Cap. 77 LFN, 1990 Cap 245 LFN, 1990, Cap 335, 1990
31. Documents under security classification Cap 335 LFN, 1990
32. Submission of reports
33. Complimentary Procedures
34. Interpretation

A BILL

FOR

AN ACT TO MAKE PUBLIC RECORDS AND INFORMATION MORE FREELY AVAILABLE, PROVIDE FOR PUBLIC ACCESS TO PUBLIC RECORDS AND INFORMATION, PROJECT PUBLIC RECORDS AND INFORMATION TO THE EXTENT CONSISTENT WITH THE PUBLIC INTEREST AND THE PROTECTION OF PERSONAL PRIVACY, PROTECT SERVING PUBLIC OFFICERS FROM ADVERSE CONSEQUENCES FOR DISCLOSING CERTAIN KINDS OF OFFICIAL INFORMATION WITHOUT AUTHORIZATION AND ESTABLISH PROCEDURES FOR THE ACHIEVEMENT OF THOSE PURPOSES AND RELATED PURPOSES THEREOF, 2004 (HB.6)

/ / Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

1.- This Act may be cited as the Freedom of Information Act, 2004. **Short Title**

2.- (1) Subject to the provisions of this Act but notwithstanding anything contained in any other Act, Law, or Regulation, every citizen of the Federal Republic of Nigeria, has a legally enforceable right to, and shall, on request, be given access to record under the control of a government or public institution. **Right of access to records**

(2) An applicant herein need not demonstrate any specific interest in the information being requested for.

(3) For the purpose of this Act, any record requested under this Act that does not exist but can, subject to such limitation as may be prescribed by regulation, be produced from a machine, readable record under the control of a government and or public institution using computer hardware and software normally used by the government and or public institution shall be deemed to be record under control of the government and/or public institution.

3. - (1) The head of every government and or public institution to which this Act applies shall cause to be published in the Federal Gazette update when changes occur- **Information about government institution**

(a) a description of the organization and responsibilities of the institution including details of programmes and functions of each division, branch and department of the institution;

(b) a description of all classes of records under the control of the institution in sufficient detail to facilitate the exercise of the right to access under this Act;

(c) a description of all manuals used by employees of the institution in administering or carrying out any of the programmes or activities of the institutions;

(d) a description of documents containing final opinions including concurring and dissenting opinions as well as orders made in the adjudication of cases;

(e) a description of documents containing substantive rules of the institution;

(f) a description of documents containing statements and interpretations of policy which have been adopted by the institution;

(g) a description of documents containing final planning policies, recommendations, and

decisions;

(h) a description of documents containing factual reports, inspection reports, and studies whether prepared by or for the institution;

(i) a description of documents containing information relating to the receipt or expenditure of public or other funds of the institutions;

(j) a description of documents containing the names, salaries, titles, and dates of employment of all employees and officers of the institution;

(k) a description of documents containing opinions concerning the rights of the State, the public, sub-division of the State or a local government, or of any private persons;

(l) a description of documents containing the name of every official and the final records of voting in all proceedings of the institution;

(m) a description of files containing applications for any contract, permit, grants or agreement;

(n) a list of reports, documents, studies, or publications prepared by independent contractors for the institution;

(o) a description of materials containing information relating to any grant or contract made by or between the institution and another government and/or public institution or private organization; and

(p) the title and address of the appropriate officers or employees of the institution to whom requests for access to records under this Act should be sent, provided that the failure of any government and/or public institution to publish any information required to be published under this sub-section shall not prejudicially affect the right of access to public records and information in the custody of such government and/or public institution as provided for under this Act.

(2) Any person entitled to the right of access conferred by this Act shall have the right to institute proceedings in a Court to compel the head of any government institution and/or public body to comply with the provisions of this section.

(3) The government and or public institutions to which this Act applies are all authorities whether executive, legislative or judicial agencies, ministries, and extra-ministerial departments of the Federal Government and of all State and local governments, together with all corporations established by law and all companies in which a Federal, State or Local Government authority has a controlling interest and also private companies performing public functions.

4. – A request for access to a record under this Act shall be made in writing to the government and or public institution that has control of the record and shall provide sufficient detail to enable an experienced employee of the institution with a reasonable effort to identify the record.

Request for access to records

5.– Where access to record is requested under this Act, the head of the government and/or public institution to which the request is made shall, subject to Sections 7, 8, and 10, within seven days after the request is received-

Notice where access to records are requested

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof.

Transfer of request

6.-(1) Where a government and or public institution receives a request for access to a record under this Act, and the head of the institution considers that another government and/ or public institution has a greater interest in the record, the head of the institution to which the request is made may, subject to such conditions as may be prescribed by regulation, within three days but not later 7 days after the request is received, transfer the request, and if necessary, the record to the other government and/or public institution, in which case the head of the institution transferring the request shall give written notice of the transfer to the persons who made the request, which notice shall contain a statement informing the person who made the request that such decision to transfer the request can be reviewed by a Court.

(2) For the purpose of Section 6, where a request is transferred under Subsection (1) of this section, the request shall be deemed to have been made to the government and or public institution to which it was transferred on the day the government and/or public institution received it.

(3) For the purpose of Subsection (1), a government and/or public institution has a greater interest in a record if-

(a) the record was originally produced in or for the institution; or

(b) in the case of a record not originally produced in or for a government and or public institution, the institution was the first government and/or public institution to receive the record or a copy thereof.

Extension of time limits.

7.- The head of government and/or public institution may extend the time limit set out in Section 6 or Subsection 7(1) in respect of a request under this Act for a reasonable period of time, and in any event not exceeding seven days, if-

(a) the request is for a larger number of records or necessitates a research through a large number of records and meeting the original time limit would unreasonably interfere with the operations of the government and/or public institutions; or

(b) consultations are necessary to comply with the request that cannot reasonably be completed within the original time limit, by giving notice of the extension stating whether the extension falls under the circumstances set out in paragraph (a) or (b), which notice shall contain a statement that the person has a right to have the decision to extend the time limit reviewed by a Court

8.- (1) Where the head of a government and/or public institution refuses to give access to a record requested under this Act, or a part thereof, the head of the institution shall state in the notice given under Section 6 (a) the specific provision of this Act on which the refusal was based and shall state in the notice that the person who made the request has a right to have the decision refusing access reviewed by a Court.

Where access is refused.

(2) Any notification of denial of any request for records shall set forth the names of each person responsible for the denial of such request.

(3) The head of a government and/or public institution shall be required to indicate under Subsection (1) whether a record exists.

(4) Where the head of a government and/or public institution fails to give access to record requested under this Act or part thereof within the time limits set out in this Act, the head of the institution shall, for the purposes of this Act, be deemed to have refused to give access.

9.-(1) A government or public regulations shall provide that-

**Fees, etc. and
action for
waivers.**

(a) fees shall be limited to reasonable standard charges for document search, duplication, review and transcription where necessary, when records are requested for commercial use;

(b) fees shall be limited to reasonable standard charges for document search, duplication, review and transcription where necessary, when records are not sought for commercial use and the request is made by an educational or noncommercial, scientific research, or a representative of the news media; and

(c) for any request described in (a) or (b) fees shall be limited to reasonable standard charges for document search, duplication, review and transcription where necessary.

(2) Document shall be furnished without any charge or at a charge reduced below the fees established under Section 10 (1) (b) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(3) Fees schedules shall provide for the recovery of only the direct costs of search, duplication, reproduction, review or transcription where the record being requested under this Act is produced as a result of the request from a machine readable record under the control of a government and/or public institution

(4) Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purpose of withholding any portions exempt from disclosure under this Act.

(5) Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section.

(6) No fee may be charged by any government or public institution-

(a) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount for the fee; or

(b) for any request described in Section 10 (1) (a) (b) or (c) for the first two hours of search time or for the first one hundred pages of publication;

(7) No government or public institution may request advance payment of any fees unless the requester has previously failed to pay fees in a timely fashion.

(8) Nothing in this Act shall supercede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(9) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo, provided that court's Fees review of the matter shall be limited to the record before the Government or Public Institution.

10.- It shall be a criminal offence punishable on conviction with 3 years imprisonment for any officer or the head of any government and/or public institution to which this Act applies who tries to either willfully destroy any records kept in his/her custody or attempts to doctor or otherwise alter same before they are released to any person, entity or community requesting for it.

**Destruction
or
falsification
of record.**

11.- (1) Access to a record shall be given to the person requesting such access in one or more of the following forms-

**Access to
records.**

(a) a reasonable opportunity to inspect or copy the record;

(b) in the case of a record that is an article or thing from which sounds or visual images are capable of being reproduced, the making of arrangements for the person to hear or view these sounds or visual images;

(c) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or which words are contained in the form of shorthand writing or in codified form, provision by the government and/or public institution of a written transcript or the words recorded or contained in the document.

(2) Subject to Subsection (3) of this section, where the person requesting access has requested such access in a particular form, access shall be given in that form.

(3) If the giving of access in the form requested by the person-

(a) would interfere unreasonably with the operations of the government and or public institution, or the performance by any officer or employee thereof of his functions,

(b) would be detrimental to the preservation of the record or, having regard to the physical nature of the record, would not be appropriate; or

(c) would, but for the provisions of this Act, involve an infringement of copyright (other than copyright owned by the Federal Republic of Nigeria, a state, or a local government, or a government and or public institution thereof) subsisting in matter contained in the record, being matter that does not relate to the affairs of a government and/or public institution, access in that form may be refused and access shall be given in another form.

(4) Subject to Subsection 13 (1), where a person requests access to a record in a particular form and, for a reason specified in Subsection (3) hereof, access in that form is refused but access is given in another form, the person requesting access shall not be requested to pay a charge in respect of the provision of access to the record that is greater than the charge that he would have been required to pay if access had been given in the form requested.

12.- Where a request is made to a government and or public institution and –

**Where
information is
not available in
discrete form**

(a) it appears from the request that the desire of the persons requesting access is for information that is not available in distinct form in documents of the government and/or public institution, and

(b) the government and or public institution could produce a written document containing the information in distinct form by-

- (i) the use of a computer or of other equipment that is ordinarily available to the government and/or public institution for retrieving or collating stored information, or
- (ii) the making of a transcript from a sound recording held in the government and or public institution, the government and/or public institution shall deal with the request as if it were a request for access to a written document so produced and containing that information, and, for that purpose, this Act applies as if the government and/or public institution had such a document in its possession.

13.- (1) The head of a government and/or public institution may refuse to disclose any record requested under this Act that contains information the disclosure of which may be injurious to the conduct of international affairs and the defence of the Federal Republic of Nigeria.

**International
affairs and
defence**

(2) However, such right to refuse the disclosure of any record requested by an applicant ceases to exist where the interest of the public in having the said record being made available to them outweighs whatever injury disclosing such records would have to the aforementioned interests provided that such public overriding interest is to be determined by a Court of law.

14.- (1) The head of a government and/or public institution may refuse to disclose any record requested under this Act that contains-

**Law
enforcement
and
investigations**

(a) records compiled by any government and/or public institution for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purpose or for internal matters of a government and/or public institution, but only to the extent that disclosure would-

- (i) interfere with pending or actual and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;
- (ii) interfere with pending administrative enforcement proceedings conducted by any government and/or public institution;
- (iii) deprive a person or a fair trial or an impartial hearing;
- (iv) unavoidably disclose the identity of a confidential source;
- (v) constitute an invasion of personal privacy under Section 19 of this Act, however, where the interest of the public would be better served by having such record being made available, this exemption to disclosure shall not apply;
- (v) obstruct an ongoing criminal investigation.

(b) information the disclosure of which could reasonably be expected to be injurious to the security of penal institutions.

(2) The head of a government and or public institution may refuse to disclose any record requested under this Act that contains information that could reasonably be expected to facilitate the commission of an offence.

(3) For the purposes of paragraph (1) (a), "Investigation" means an investigation that-

- (a) pertains to the administration or enforcement of any enactment;
- (b) is authorized by or pursuant to any enactment.

15.- The head of a government and/or public institution may refuse to disclose any record requested under this Act that contains-

**Economic
interest of the
Federal
Republic of
Nigeria.**

(a) trade secret, financial, commercial, or technical information that belongs to the government of the Federal Republic of Nigeria or any State or Local Government thereof, and has substantial economic value or is likely to have substantial value;

(b) information the disclosure of which could reasonably be expected to prejudice the competitive position of a government and/or public institution;

(c) scientific or technical information obtained through research by an officer or employee of a government and/or public institution, the disclosure of which could reasonably be expected to deprive the officer or employee of priority of publication; or

(d) information the disclosure of which could reasonably be expected to be materially injurious to the financial interest of the Federal Republic of Nigeria, or any State or Local Government thereof, or the ability of the Federal Government, a State or Local Government to manage its economy, or could reasonably be expected to result in an undue benefit to any person including but not limited to the following information-

(i) the currency, coinage or legal tender of the Federal Republic of Nigeria,

(ii) a contemplated change in the rate of banks interest or in government borrowing;

(iii) a contemplated change in the tariff rates, taxes, duties or any other revenue sources,

(iv) a contemplated change in the conditions of operation of financial institutions; and

(v) a contemplated sale or purchase of securities or of foreign or Nigerian currency.

16.- (1) Subject to Subsection (2), the head of a government and or public institution shall refuse to disclose any record requested under this Act that contains personal information. Information exempted under this subsection shall include-

**Personal
Information**

(i) files and personal information maintained with respect to clients, patients, residents, students, or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or government and or public institutions;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any government and/or public institution or applicants for such positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any government and/or public institution cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) informational required of any tax payer in connection with the assessment or collection of any tax unless disclosure is otherwise requested by state statute; and

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies.

(2) The head of a government and/or public institution may disclose any record requested under this Act that contains personal information if-

(a) the individual to whom it relates consents to the disclosure

(b) the information is publicly available

(3) Where disclosure of any information referred to in this section would be in the public interest, and if the public interest in the disclosure of such information clearly outweighs the protection of the privacy of the individual to whom such information relates, the head of the government and/or public institution to whom a request for disclosure is made shall disclose such information subject to Section 14(2) of this Act.

**Third party
information**

17.- (1) Subject to this section, the head of a government and/or public institution shall refuse to disclose any record requested under this Act that contains-

(a) trade secrets and commercial or financial information obtained from a person or business where such trade secrets or information are proprietary privileged or confidential, or where disclosure of such trade secrets or information may cause competitive harm. Nothing contained in this subsection shall be construed to prevent a person or business from consenting to disclosure;

(b) information the disclosure of which could reasonably be expected to interfere with the contractual or other negotiations of a third party;

(c) proposal and bids for any contract, grants, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person.

(2) The head of a government and or public institution shall not, pursuant to Subsection (1), refuse to disclose a part of a record if that part contains the result or product of environmental testing carried out by or on behalf of a government and/or public institution.

(3) Where the head of a government and or public institution discloses a record requested under this Act, or a part thereof, that contains the results of a product or environmental testing, the head of the institution shall at the same time as the record or part thereof is disclosed provide a person who requested the record with a written explanation of the method used in conducting the test.

(4) The head of a government and or public institution shall disclose any record requested under this Act, or any part thereof, that contains information described in paragraph (1) (a) and (b) if that disclosure would be in the public interest as it relates to public health, public safety or protection of the environment and, if the Public interest in disclosure clearly outweighs in importance any financial loss or gain to, or prejudice to the competitive position of, or interference with contractual or other negotiation of a third party.

18.- (1) The head of a government and or public institution may refuse to disclose any record **Advice, etc.** requested under this Act, that contains preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion thereof shall not be exempted when the record is publicly cited and identified by the head of the government and/or public institution. The exemption provided in this subsection extends to all those records of officers and agencies of

National or State Houses of Assembly which pertain to the preparation of legislative documents.

(2) Subsection (1) does not apply in respect of a record that contains-

(a) an account of, or a statement of reasons for a decision that is made in the exercise of a discretionary power or an adjudicative function and which affect the rights of a person; or

(b) a report prepared by a consultant or an adviser who was not, at the time the report was prepared, an officer or employee of a government and/or public institution or a member of staff of a Ministry of the Federal Government or Commissioner of a State Government.

Legal Practitioners/Client privilege

19.- The head of a government and/or public institution may refuse to disclose any record requested under this Act that contains information that is subject to Legal Practitioner-Client privilege.

Course or Research materials

20.- The head of a government and/or public institution may refuse to disclose any record requested under this Act which contains course materials for research materials prepared by faculty members

Severability

21.- Notwithstanding any other provision of this Act, where a request is made to a government and or public institution for access to a record that the head of the institution is authorized to refuse to disclose under this Act by reason of information or other materials contained in the record, the head of the institution shall disclose any part of the record that does not contain, and can be severed from any part that contains any such information or material.

Judicial review.

22.- Any person who has been refused access to a record requested under this Act, or a part thereof may apply to the Court for a review of the matter within thirty days after the head of the government and/or public institution refuses or is deemed to have refused the request, or within such further time as the Court may either before or after the expiration of those thirty days fix or allow.

23.- The head of a government and/or public institution may refuse to disclose any record requested under this Act that contains information pertaining to-

Refusal by head of government and/or public institution to disclose records.

(a) test questions, scoring keys and other examination data used to administer an academic examination or determine the qualifications of an application for a license or employment;

(b) architects' and engineers' plans for buildings not constructed in whole or in part with public funds and for buildings constructed with public funds, to the extent that disclosure would compromise security, and

(c) library circulation and other records identifying library users with specific materials.

24.- An application made under section 23 shall be heard and determined summarily.

Hearing in a summary way.

25.- Notwithstanding anything contained in any other Act or enactment or any privilege under the law of evidence, the Court may, in the course of any proceedings before the Court arising from an application under Section 23 of this Act, examine any record to which this Act applies that is under the control of government and/or public institution, and no such record may be withheld from the court on any ground.

Access to record by Court.

26.- In any proceedings before the

Court arising from an application under Section 23, the Court shall take precaution, including when appropriate, receiving representations ex-parte and conducting hearings in camera to avoid the disclosure by the Court or any person of any information or other materials on a basis of which the head of a government and/or public institution will be authorized to disclose a part of a record requested under this Act.

Court to take precautions against disclosing information.

27: In any proceedings before the Court arising from an application under Section 23, the burden of establishing that the head of government and/or public institution is authorized to refuse to disclose a record under this Act or a part thereof shall be on the government and/or public institution concerned.

Burden of proof.

28.- (1) Where the head of a government and/or public institution refuses to disclose a record requested under this Act, or a part thereof on the basis of a provision of this Act, the Court shall order the head of the institution to disclose the record or part thereof to the person who requested for access to the record-

Order to disclose information.

(i) if the Court determines that the head of the institution is not authorized to refuse to disclose the record or part thereof: or

(ii) where the head of the institution is so authorized, but the Court nevertheless determines that the head of the institution did not have reasonable grounds on which to refuse to disclose the record or part thereof;

(iii) where the Court makes a finding that the interest of the public in having the record being made available is greater and more vital than the interest being served if the application refused, in whatever circumstance.

(2) Any order the Court makes in pursuance of this section may be made subject to such conditions as the Court deems appropriate.

29.- This Act does not apply to-

Exempted materials.

(a) published material or material available for purchase by the public;

(b) library or museum material made or acquired and preserved solely for public reference or exhibition purposes; or

(c) material placed in the National Library, the National Museum or the non-public section of the National Archives of the Federal Republic of Nigeria on behalf of any person or organization other than a government and/or public institution.

30.- (1) Notwithstanding anything contained in the Criminal Code, Penal Code, the Official Secrets Act, or any other enactment, no civil or criminal proceedings shall lie against any government and/or public institution, or against any person acting on behalf of the government and or public institution, and no proceedings shall lie against the Federal Government, State or Local Government or any institution thereof, for the disclosure in good faith of any record or any part of a record pursuant to this act, for any consequences that flow from that disclosure, or for the failure to give any notice required under this Act, if care is taken to give the required notice.

Protection of Public Officers, Cap. 77 LFN, 1990, Cap. 245 LFN, 1990, Cap 334, 1990.

(2) Nothing contained in the Criminal Code or the official Secrets Act shall prejudicially affect any public officer who, without authorization discloses to any person, any public record

and/or information which he reasonably believes to show-

- (a) a violation of any law, rule or regulation,
 - (b) mismanagement, gross waste of funds, fraud, and abuse of authority; or
 - (c) a substantial and specific danger to public health or safety notwithstanding that such information was not disclosed pursuant to the provision of this Act.
- (3) No civil or criminal proceedings shall lie against any person receiving the information or further disclosing it.

31.- (1) The fact that any record in the custody of government and/or public institution is kept by that institution under security classification or is classified document within the meaning of the Official Secrets Act does not preclude it from being disclosed pursuant to a request for disclosure thereof under the provisions of this Act, but in every case the head of the government and/or public institution to which a request for such record is made shall decide whether such record is of a type referred to in Sections 14, 15, 16, 17, 18, 19, 20 or 21 of this Act.

**Documents
under
security
classification
Cap. 35
LFN, 1990.**

(2) If the head of the government and/or public institution to which the request for a record mentioned in Subsection (1) is made, decides that such record is not a type mentioned in the sections referred to in Subsection (1) hereof, access to such record shall be given to the person requesting for such access.

(3) If the head of the government and/or public institution to which the request for a record mentioned in Subsection (1) is made decides that such record is of a type mentioned in the sections referred to in Subsection (1) hereof, he shall give notice to the person requesting for the record.

32.- (1) On or before February 1 of each year, each government or public institution shall submit to the Attorney General of the Federal Republic of Nigeria a report which shall cover the preceding fiscal year and which shall include-

**Submission of
reports.**

(a) the number of determinations made by the Government or Public Institution not to comply with requests for records made to such Government or Public Institution under this Act and the reasons for each such determinations;

(b) the number of appeals made by persons under this Act, and the reason for the action upon each appeal that results in a denial of information;

(c) a description of whether a court has upheld the decision of the Government or Public Institution to withhold information under such circumstances and a concise description of the scope of any information withheld.

(d) the number of requests for records pending before the Government or Public Institution as of October 31 of the preceding year and the median number of days that such request had been pending before the government or Public Institution as of that date;

(e) the number of requests for records received by the Government or Public Institution and the number of requests which the Government or public institution processes;

(f) the median number of days taken by the Government or Public Institution to process

different type of requests;

(g) the total amount of fees collected by the Government or Public Institution to process such request; and

(h) the number of full-time staff of the Government or Public Institution devoted to processing requests for records, and or the total amount expended by the Government or Public Institution for processing such requests.

(2) Each government or public institution shall make such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the Government or Public Institution, by other electronic means.

(3) the Attorney-General shall make each report, which has been submitted to him, available at a single electronic access point

(4) He shall notify the Chairman and ranking minority member of the Committee on Government Reform Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Government Affairs and the Judiciary of the Senate, not later than April of the year in which each such report is issued, that such reports are available by electronic means.

(5) The Attorney-General shall develop reporting and performance guidelines in connection with reports required by this section and may establish additional requirements for such reports as the Attorney-General determines may be useful.

(6) The Attorney-General shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this Act, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed.

(7) Such report shall also include a description of the efforts taken by the ministry of Justice to encourage all government or public institutions to comply with this Act.

(8) For purposes of this section, the term-

(a) "government" includes any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any other independent regulatory government or public institution; and

(b) "record" means any term used in this Act in reference to information which includes any information that would be government or public institution record subject to the requirements of this Act when maintained by government or public institution in any format, including an electronic format.

33.- (1) This Act is intended to complement and not replace existing procedures for access to public records and information and is not intended to limit in any way access to those types of official information that have, hitherto, been normally available to the general public.

**Complimentary
procedures**

(2) Where the question whether any public record and or information is to be made available, where that question arises under this Act, the question shall be determined in accordance with the provision stated herein, unless otherwise exempted by this Act.

34.- In this Act, unless the text otherwise requires-

Interpretation

“Court” means a State High Court where the official information in question is kept by a local or State government institution and the Federal High Court where the official information in question is kept by a Federal Government institution.

“Foreign State” means any State other than the Federal Republic of Nigeria;

“Public/Government Institution” means any legislative, executive, judicial, administrative or advisory body of the Federal, State and Local Governments, boards, bureaux, committees or commissions of the State, and any subsidiary body of those public bodies including but not limited to committees and sub-committees which are supported in whole or in part by public fund or which expends public fund and private bodies carrying out public functions;

“Public records or document” means record in any form having been prepared, or having been or being used, received, possessed or under the control of any public or private bodies relating to matters of public interest and includes-

- (a) any writing on any material;
- (b) any information recorded or stored on other devices; and any materials subsequently derived from information so recorded or stored;
- (c) any label, marking, or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
- (d) any book, card, form, map, plan, graph, or drawing;
- (e) any photograph, film, negative, microfilm, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced;

“Minister” means the Minister charged with responsibility for information;

“Person” includes a corporation sole, and also a body of persons whether corporate or incorporate; acting individually or as a group;

“Personal information” means any official information held about an identifiable person; but does not include information that bears on the public duties of public employees and officials.

EXPLANATORY MEMORANDUM

This Bill seeks to provide a right of access to public information or records kept by government, public institution and/or private bodies carrying out public functions for citizens and non-citizens of the country.

2. This will increase the availability of public records and information to citizens of the country in order to participate more effectively in the making and administration of laws and policies and to promote accountability of public officers.

3. The Bill also seeks to prove the disclosure of public records or information by public officers without authorization thereof provided it is for public interest and such officers are protected from adverse consequences flowing from such disclosure

THIS BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON THURSDAY, 2ND SEPTEMBER, 2004.

Speaker
House of Representatives

Clerk
House of Representatives