



**The National Legislature of the Republic of Liberia**

**Freedom of Information Act 2008**

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# **AN ACT TO ENACT THE FREEDOM OF INFORMATION ACT FOR LIBERIA, 2008**

**WHEREAS**, Liberia as a modern nation emerging from civil crisis characterized by human rights abuse and lack of access to information and freedom of expression is desirous of enacting a freedom of information code to control and govern matters of public access to official information and thereby repealing all statutes, regulations and policies incompatible with the principles of freedom of information; and,

**WHEREAS**, the Government of Liberia emphasizes respect for the rule of law to enhance peace, harmony, tranquility, and respect for human rights in conformity with international laws;

## **NOW THEREFORE:**

IT IS ENACTED BY THE LEGISLATURE ASSEMBLED:

Section 1: There is hereby enacted an Act entitled:

### **" THE FREEDOM OF INFORMATION ACT, 2008"**

verbatim in a paperback volume from cover to cover.

## **PART I PRELIMINARY**

### **CHAPTER 1: GENERAL PROVISIONS**

Section 1.1 Title

Section 1.2: Short Title

Section 1.3: Transitional Rules

Section 1.1: Title: This Act shall be known as "**THE FREEDOM OF INFORMATION ACT, 2008**"

Section 1.2: Short title: This Act may be cited as the Freedom of Information Act.

Section 1.3: Transitional Rules for Implementation of this Act:

- (a) Effective Date: Except as otherwise provided herein, the effective date of this Act shall be January 1, 2009.
- (b) Financial Procedures: All administrative fees set by public and private bodies under prior laws shall remain in effect until new regulations are issued under this Act or unless they are superseded by the provisions of this Act or other legislation.

## CHAPTER 2: GENERAL PRINCIPLES OF THE ACT

- Section 2.1: Object of the Freedom of Information Act
- Section 2.2: Legal Basis for Freedom of Information Act
- Section 2.3: Definitions
- Section 2.4: Application of the Act

### Section 2.1: Object of the Freedom of Information Act:

- (a) Object: The principal object of this Act is to grant to members of the public the right of access to information in the possession of public authorities or private bodies performing public functions in accordance with the procedures laid down in this Act and, in particular, by:
  - (i): Removing all unjustifiable restrictions on access to information for members of the public in Liberia;
  - (ii) Establishing procedures and mechanisms to enable members of the public access information and records held by public authorities and private bodies performing public functions.
  - (iii) Giving the public access to information on the operations of all public bodies and authorities, including the practice and procedures of public authorities;
  - (iv) Enhancing, facilitating and promoting the prompt disclosure of information at the lowest reasonable cost to members of the public;
  - (v) Recognizing and guaranteeing a general right of every person to access personal information held about them by public and private bodies and to correct any inaccuracies therein, including where the information is incomplete, incorrect or misleading.

### Section 2.2: Legal Basis for Freedom of Information Act

- (a) The right of members of the public to access information held by public authorities and private bodies performing public functions is a fundamental human right guaranteed under international human rights law, including regional human rights instruments to which Liberia voluntarily acceded.
- (b) In particular, the Republic of Liberia fully subscribes to the principle laid down in Article IV of the Declaration of Principles on Freedom of Expression in Africa wherein it was stated that: “Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.
- (c) As a member of the comity of nations, it is imperative that Liberia, through domestic legislation, affirms and guarantees her citizens this important

fundamental human right and establishes procedures for the full enjoyment of this right.

- (d) Moreover, it is in the national interest of the Republic of Liberia to legally guarantee the right of its citizens to have access to public records, documents and other information, subject to legitimate exemptions, as this will enhance democratic participation by the citizens and good governance.

### Section 2.3 Definitions

Section 2.3 Unless the context otherwise clearly indicates, the following terms, acronyms and abbreviations used herein have the respective meanings as are set forth below:

Act: shall mean the Freedom of Information Act.

Authority: shall mean any public authority or institution of the Government of Liberia.

Cabinet: shall mean the entire cabinet of the Republic or a committee of the Cabinet.

Government/GOL: shall mean the Government of Liberia and shall include any executive, legislative or judicial body at every level as well as committees or sub-committees, boards, bureaus, commissions, which are supported either in whole or in part by public funds or which expend public funds .

Public Record: means a record, manual rule book, regulation, or other documents produced or received by, being used or having been used by, possessed by or under the control of a public authority, whether in written form or recorded or stored in electronic form or in any other device.

Public Scheme: shall mean publication by public authority providing detailed information to the public on the nature and activities of that authority and information it publishes.

Republic: shall mean the Republic of Liberia.

Requester: shall mean an applicant or person who requests access to a document or information.

Responsible Minister: shall mean the head of the ministry or public authority in possession of or to which the request is made for information or public record.

School: shall mean all institutions of learning including universities, colleges, technical learning institutions, etc.

Union: shall mean the Press Union of Liberia (PUL) and all of its associated bodies.

### Section 2.4: Application of Act:

This Act shall apply to:

- (i) All public authorities and bodies at all branches and levels of Government including but not limited to ministries, departments, agencies, public corporations,

commissions, committees, sub-committees, bureaus, boards, military and paramilitary institutions, which are supported either in whole or in part by public funds or which expend public funds.

- (ii) Private bodies engaged in or having public functions
- (iii) Private contractors providing services on behalf of a public authority.

## **PART II**

### **PUBLICATION OF CERTAIN DOCUMENTS AND INFORMATION**

#### **CHAPTER 3: PUBLIC AUTHORITIES**

Section 3.1: Maintenance of Publication Scheme

Section 3.2: Public Records

Section 3.3: Unpublished Documents

Section 3.1: Maintenance of Publication Scheme: Every public authority shall establish and maintain a publication scheme that will provide detailed information to the public on the nature and activities of that authority and information it possesses. The establishment of this scheme shall be completed and available to the public within three months from the date of commencement of this Act, and shall be made in the mode approved by the head of the authority. Copies of the scheme shall be available in the authority's archives, reading room and in public and school libraries.

(a): Approval of Head of Authority Required: The most senior officer of each authority shall approve of the authority's publication scheme and the mode in which it should be made available to the public. This approval shall be included in and form a part of the mode in which the publication scheme is made.

(b) Contents of the Publication Scheme: The publication scheme shall contain a statement:

- (i) describing the nature, organization and function of the authority, and providing details on the decision-making and other powers affecting members of the public that are involved in those functions. The statement shall also state arrangements, if any, with bodies or persons outside the government administration for consultation relative to the functions of the authority;
- (ii) of the types and categories of documents and information maintained by the authority and the general location of the document and information from which the public may inspect or obtain the document or information.
- (iii) of the procedures to be followed to have access to the document or information.

(c) Exclusion of Exempt Information: No information shall be published that is of such a nature that when included in a document, will cause that document to be an exempt document. Exempt information shall not bar the provision to the public of other information to which the public is generally entitled.

- (d) **Authorities Established After commencement of Act:** Any authority that is established on or after the date of commencement of this Act shall comply with this Act as soon as practicable but shall have not more than twelve months from the date the authority comes into existence, to comply.

**Section 3.2: Public Records:** The public shall have a right to inspect and obtain copies of all kinds of information held by the Government and public authorities, except those legitimately exempted from public access under this Act. All such documents and information shall be classified as public record and shall be made available to the public by the Government or the authority that produced or has custody of the document.

- (a) **Document to be Inspected and Purchased:** The public shall have right of access to documents and information without limitation, except as otherwise provided in this Act or by any other law not inconsistent with this Act. This right of access to information shall include review of or acquisition and retention of information by inspection or purchase.
- (b) **Right to Inspect:** The authority shall provide adequate facility to the public to facilitate review and inspection of public records.
- (c) **Right to Purchase:** The authority shall cause copies of all public records that are in use from time to time to be made available for purchase by members of the public pursuant to the cost or fee structure established in accordance with this Act.

**Section 3.3: Unpublished Document:** If a public document required to be made available in accordance with section 1.2 of this Chapter is not made available and included in the publication scheme, that unavailability shall be a defense to any member of the public who was not aware of the rules, guidelines, practices or requirements in such document. The public shall not be subjected to any prejudice by reason only of application of that document in relation to the act committed or omitted if such act could lawfully have been avoided had the public or that member of the public been aware of the rules, guidelines, practices or requirements.

## **PART III RIGHT OF ACCESS TO INFORMATION**

### **CHAPTER 4: GENERAL PROVISIONS**

- Section 4.1: Right of Access  
Section 4.2: Documents to which Right Applies  
Section 4.3: Requests for Access  
Section 4.4: Refusal of Request for Access to Document  
Section 4.5: Reasons for Refusal of Request for Access to Documents  
Section 4.6: Appointment or Designation of Information Officer  
Section 4.7: Destruction or Falsification of Documents or Records  
Section 4.8: Application for Judicial Review Where Access is Denied  
Section 4.9: Fee Structure for Access to Records and Documents

Section 4.1: Right of Access: Subject to the provisions of this Act but notwithstanding anything contained in any other Act, Law, Regulation or enactment, every person resident in the Republic of Liberia shall have a right of access to information held by any public authority or private body carrying out public functions. In furtherance of this right:

- (a) Information of public nature shall be maintained in public libraries and other areas where members of the public may have unfettered access and such information shall be readily available for the unconditional use by the public.
- (b) Every person shall have a right of access upon request and in accordance with this Act, to official documents other than an exempt document.
- (c) Where a request for information has been made to an appropriate agency covered by this Act, that agency shall make available the information within ten working days from the date of the request.

Section 4.2: Documents to Which Right Applies: No person shall be restricted from having access to records or documents that are:

- (a) Open to public access whether under the provision of this Act or any other enactment;
- (b) Available to the public for purchase in accordance with arrangements made by any public authority;
- (c) Applied for in accordance with this enactment or the arrangements made by any public authority on the ground that it contains both general and exempt information except that the exempt information as provided under Part V of this Act, shall be deleted from the record or document by the authority.

Section 4.3: Requests For Access: The right granted under Section 4.1 of this Act shall be exercisable by means of a request for access to a public record or document made in writing by the requester to the relevant public authority or private body as the case may be which shall contain:

- (a) The name or description of the document, record or information for which access is requested;
- (b) Information concerning the record or document as is reasonably necessary to enable the public authority to identify the record or document being requested;
- (c) Specification of the form in which the requester wishes to be given access to the document or record including:
  - (i) Inspection of the document or record;
  - (ii) Copy of the document or record in paper form;
  - (iii) Copy of the document or record in electronic form;
  - (iv) Copy of the document or record in sound or visual images;
  - (v) Copy of the document or record in a written transcript.

Provided that no person requesting access to a record or document under the provisions of this Act shall be required to demonstrate any specific interest in the record or document being requested.

Section 4.4: Refusal of Requests for Access to Document: No authority shall refuse to give access to document requested except if the:

- (a) Request made is not properly formulated and the authority has taken reasonable steps to assist the requester to reformulate the request but to no avail;
- (b) Authority justifiably defers the provision of the document or record and the requester rejects such deferral;
- (c) Requester has not, or refuses to pay the fee prescribed by law or regulation for access to such document or record;
- (d) Request has not been directed to the proper authority and the requester rejects a transfer of the request by that authority to the appropriate authority;
- (e) Request is made for a document or record containing only exempt information.

Section 4.5: Reasons for Refusal of Request for Access to Documents or Records: Where an authority refuses to give access to a document or record requested, the decision shall be made by the authorized person such as the responsible minister, the chief executive officer or by an officer of the authority acting within the scope of authority exercisable by him or her in accordance with the arrangements approved by the responsible minister or chief executive officer of the authority. The reasons for refusal shall be specific as to:

- (a) The factors making the requester not entitled to access to the document or record in accordance with the request.
- (b) Whether the document or record requested is in existence.
- (c) Whether the document or record is an exempt document or record and the specific reasons for its being so exempted.
- (d) The name and designation of the person giving the decision.
- (e) The right of the requester to apply for a review of the decision in accordance with Part II of this Act.

Section 4.6: Appointment or Designation of Information Officer: Every public authority and private body to which this Act applies shall appoint or designate an Information Officer who shall be responsible for receiving requests for access to information from members of the public

- (1) In order to ensure that members of the public have easy access to the Information Officer, every public authority or private body to which this Act applies shall cause to be published and made publicly available the name, designation, functions and contact details of the Information Officer.
- (2) The Information Officer shall, in addition to any other duties and obligations provided for in this Act, have the following other responsibilities:
  - (a) to promote within the public authority or private body best practices in record maintenance, archiving and general management;
  - (b) to serve as a central contact within the public authority or private body for receiving requests for access to information;
  - (c) to assist members of the public seeking information to file proper requests for access to information, and assist in the processing of such requests.

Section 4.7: Destruction or Falsification of Documents or Records: It shall be a criminal offence punishable on conviction with a maximum of two (2) years imprisonment for any person, being in the employment or service of any public authority or private body to which this Act applies, who attempts or knowingly or willfully destroy, alter or otherwise tamper with any document, record or other information kept in his or her custody or in the custody of any public authority or private body as the case may be before they are released to any person or entity requesting for it.

Section 4.8: Application for Judicial Review Where Access is Denied: Any person who has been denied access either in whole or in part to a document or record applied for under the provisions of this Act by any public authority or private body to which this Act applies shall be entitled to apply to a Court of Law for a review of the decision of the public authority or private body as the case may be.

- (1) An application to a Court of Law for a review of the decision of a public authority or private body denying access to a document or record shall be made matter within three (3) months from the date of refusal by the public authority or private body as the case may be or within such further time as the Court may either before or after the expiration of the three months allow.
- (2) An application made under this section shall be heard by the court and determined summarily, with the objective of ensuring speed and minimal cost of such proceedings.

Section 4.9: Fee Structure for Access to Records and Documents: Every public authority or private body to which this Act applies shall by regulation provide for a fee structure to be paid by members of the public for access to records or documents or other information requested. Such regulations shall provide that fees shall be limited to the actual cost of copying, duplicating, or transcribing, where necessary. It shall not be the objective of any public authority or private body to which this Act applies to make a profit in the application or implementation of this Act.

## **PART IV**

### **EXEMPT DOCUMENTS OR RECORDS**

#### **CHAPTER 5: NATIONAL INTEREST**

Section 5.1: National Security, Defence and International Relations

Section 5.2: Trade Secrets

Section 5.1: National Security, Defence and International Relations: A document or record is exempted from the general right of access if the disclosure of such document or record would prejudice the security, defence or international relations of the Republic or would divulge any information or matter communicated in confidence by or on behalf of another country to the Government. In such events, the responsible minister shall:

- (a) Sign a certificate which shall establish conclusively that the document or record is an exempt document or record so long as the certificate remains in force, that disclosure of the document would be contrary to the public interest.
- (b) Sign a certificate for any part or parts of a document or record deemed exempt in accordance with sub-section (b) of this section.

Section 5.2: Trade Secrets: A document or record is an exempt document or record if its disclosure under this Act would reveal trade secrets belonging to a public authority or a private commercial entity or destroy the commercial value or affect the competitiveness of a government of private business or person in relation to the business or person's business interest except that it shall not include:

- (a) Information on the business or professional affairs of that business or person; or
- (b) Information on the business, commercial or financial affairs of an undertaking of which that person, or a person on whose behalf that person made the request, is a proprietor.

Provided that documents or records, the disclosure of which would be contrary to the public interest if the disclosure would be reasonably likely to have an adverse effect on the national economy shall be exempted from the general right of access.

## CHAPTER 6: COURT DOCUMENTS

Section 6.1: Administration of Justice

Section 6.2: Legal Professional Privilege

Section 6.3: Disclosure as Contempt

Section 6.1: Administration of the Law: A document is an exempt document if its disclosure under this Act would, or would be reasonable likely to prejudice the proper administration of justice such as:

- (a) Prejudice an ongoing investigation of a criminal offence by a law enforcement agency or would frustrate the prevention or detection of crime or otherwise aid the commission of a crime.
- (b) Prejudice the fair trial of a person or the impartial adjudication of a particular case by a court of Law.
- (c) Disclose the identity of a confidential source of information in a criminal investigation or procedures for dealing with matters, the disclosure of which would prejudice administration of justice.
- (d) Endanger the lives or physical safety of persons engaged in or connected with the administration or enforcement of the law.

Section 6.2: Legal Professional Privilege: A document or record is an exempt document or record if its nature is such that it would be privileged from production in any legal proceedings on the ground of legal privilege.

Section 6.3: Disclosure as Contempt: A document or record is an exempt document or record if the public disclosure of the document or record would, apart from this Act and any immunity of the state, be:

- (a) Amount to a contempt of court;
- (b) Contrary to an order or regulation made or given by a commission or by a tribunal or other person or body having power to take evidence on oath;
- (c) An infringement on the privileges of the Legislature.

## CHAPTER 7: PERSONAL PRIVACY

### Section 7.1: Personal Privacy

Section 7.1: Personal Privacy: A document or record is an exempt document if it is a document whose disclosure under this Act would involve the unreasonable disclosure of the personal information of any individual.

## CHAPTER 8: ACCESS TO PERSONAL RECORDS AND INFORMATION

### Section 8.1: Right of Access to Personal Records and Information

### Section 8.2: Correction of Personal Records and Information

### Section 8.3: Disclosure in the Public Interest

Section 8.1: Right of Access to Personal Records and Information: Except as provided in Part V of this Act, every person shall be entitled to have access to his or her personal records or information maintained by any public authority or private body without costs except for costs of reproduction.

Section 8.2: Correction of Personal Records and Information: Where access to a document or record has been given under this Act or any other enactment and the document or record contains personal information of a person and that person claims that the information is inaccurate by reason of being incomplete, incorrect or misleading or that the information is not relevant to the purpose for which the document is held, that person shall have the right to make representation to the affected public authority or private body to have the document or record amended. Upon the application of the person about whom the record or information relates and the satisfaction of the claim in the same manner as the procedures for requesting access to documents as provided in this Act, the record or information about that person shall be amended accordingly.

Section 8.3: Disclosure in the Public Interest; Notwithstanding anything contained in this Part, a record, document or information shall not be exempted where the interest of the public in having access to the said record, document or information outweighs whatever injury the disclosure would cause to the interest sought to be protected.

## CHAPTER 9: PROTECTION FROM CIVIL OR CRIMINAL LIABILITY

### Section 9.1: Claim of Defamation or Breach of confidence

Section 9.2: Claim of Offence  
Section 9.3: Protection of Whistleblowers  
Section 9.4: Protection of Recipients of Unauthorized Information

Section 9.1: Claim of Defamation or Breach of confidence: Any person who having acted pursuant to the provisions of this Act is accused of defamation or breach of confidence or similar action for giving access to a document or record or other information as provided by this Act or by the authority of the appropriate officer in any public authority or applicable private body shall not be liable for such claim nor shall the Government of Liberia or the public authority be liable for such claim.

Section 9.2: Claim of Offence: No person shall be guilty of a criminal offence who gives access to a document as required by this Act or by approval of the appropriate head of the authority or decision maker in a bona fide belief that the access was requested by this Act to be given. No claim shall similarly lie against any person to whom information has been given in pursuance of this Act.

Section 9.3: Protection of Whistleblowers: Nothing contained in any Act, Law, Regulation or any other enactment, shall prejudicially affect any person in the employment or service of a public authority or a private body to which this Act applies who, without authorization discloses to any person, any record, document or information which he or she reasonably believes to reveal:

- (a) the violation of any law, rule or regulation;
- (b) the mismanagement, embezzlement, or gross waste of public 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.

Section 9.4: Protection of Recipients of Unauthorized Information: Further to Section 9.4 above, no civil or criminal proceedings shall lie against any person receiving the information or further disclosing it.

## CHAPTER 10: REPORTING AND LEGISLATIVE OVERSIGHT

Section 10.1: Reporting  
Section 10.2: Public Access to Reports  
Section 10.3: Additional Measures to Ensure Effective Implementation

Section 10.1: Reporting: On or before April 1 of each year, all public authorities and private bodies to which this Act applies shall submit to the National Legislature a report which shall cover the preceding calendar year and which shall include:

- (a) the number of requests for access to documents or records or other type of information received by the public authority or private body as the case may be between January 1 and December 31 of the preceding year and the number of applications which the public authority or private body processed during the period;

- (b) the number of requests for access to documents and records pending before the public authority or private body as the case may be as of December 31 of the preceding year and the number of days that each of those requests had been pending before the public authority or private body as of the date of the submission of the report;
- (c) the number of requests where the public authority or the private body as the case may be declined access to records or documents requested by members of the public under this Act and the reasons for each such refusal of access;
- (d) the average number of days it takes the public authority or private body to process different types of requests for access to information, records or documents;
- (e) the total amount of fees collected by the public authority or private body as the case may be to process such requests; and
- (f) A description of the steps or efforts taken by the responsible Minister or Chief Executive of the public authority or private body as the case may be to encourage all officers under his or her charge to comply with the provisions of this Act.

Section 10.2: Public Access to Reports: Each public authority or private body shall make its report available to members of the public, including online and by other electronic means.

Section 10.3 Additional Measures to Ensure Effective Implementation: If in the opinion of the National Legislature, the reports of the public authorities and private bodies to which this Act apply indicate or suggest that the aims and objects of this Act are not being achieved or that the Act is not being fully implemented, the National Legislature may take further legislative or other measures it deems necessary to ensure effective implementation and the full realization of the aims and object of this Act.

Section XX: This Act shall take effect immediately upon publication in Hand-Bills.

ANY LAW TO THE CONTRARY NOTWITHSTANDING.