

Subject : Implementation of Section of the RTI Act 2005

Reference Commission's directive dated 15.11.2010 under Section 19(8)(a) to the public authorities for time-bound implementation of Section 4 obligations under the RTI Act.

2. I invite your kind attention to the directive of the Commission for time-bound implementation of the provisions of Section 4 of the RTI Act, issued under the powers vested in it under Section 19(8)(a) of the RTI Act. Section 19(8)(a) of the Act states the following:-

*"19(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—*

*(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—*

- (i) by providing access to information, if so requested, in a particular form;*
- (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;*
- (iii) by publishing certain information or categories of information;*
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;*
- (v) by enhancing the provision of training on the right to information for its officials;*
- (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;"*

3. The directive emphasizes that compliance with the Section 4 obligations by public authorities is at the heart of the RTI Act. It enjoined public authorities to accept transparency commitments by undertaking time-bound suo-motu disclosures.

4. Underlining that, transparency commitments and suo-motu disclosures would remain nothing more than vague promises, unless these are matched by tangible action through proper record-management-practices, and time-bound disclosure of several items of identifiable information under supervision and guidance of a senior officer of the public authority, this directive gives the following instructions:-

- (i) Public authorities to carry out time-bound action to complete parts of their Section 4 obligation within 120 days.
- (ii) The balance obligations, which involve sifting of records and making a conscious determination about what information can be brought into the public domain suo-motu, is to be completed within six months. This is part of the record-management aspect of Section 4 of the Act.

- (iii) It commends designation by the public authority of a sufficiently senior officer as Transparency Officer, to oversee the implementation of the Section 4 obligations. These officers are also required to be the interface with the Central Information Commission on the one hand and the public on the other, about transparency aspects of the functioning of the public authority.

5. As per the provisions of the RTI Act, a large part of the Section 4 commitment by the public authorities was to be completed within 120 days of the Act coming into force, i.e. 15<sup>th</sup> June, 2005. Certain public authorities have made some serious effort in this direction, but the overall action in implementing this provision has been slow and halting. This has necessitated the present directive.

6. It is important to note that Section 4 obligates the public authorities to use the latest technologies to discharge their transparency commitments under that Section, subject to availability of resources.

7. Commission feels that it has now become necessary that the top echelons of the public authorities are sensitized about seriously addressing the several aspects of discharging their Section 4 commitments, including progressive digitization of data and use of other available technologies, to not only make transparency the hallmark of their functioning, but also to create the right conditions for the public to access the information through painless and efficient processes that shall be put in place.

8. The ultimate aim of the RTI Act is that public should have access to most information held by public authorities without the use of the RTI laws. Section 4 of the RTI Act is an initial, but necessary, prelude to achievement of that objective. Hence the importance of this Section.

9. *I have been directed by the Commission to communicate to you its above mentioned directive for implementation by your Ministry / Department as well as all public authorities within your jurisdiction. It is requested that you may kindly issue appropriate directives to all top officers under your control as well as to the top officials of the public authorities controlled by the Ministry / Department to give immediate effect to the Commission's directive dated 15.11.2010.*

10. It is further requested that the relevant details of the officer designated as Transparency Officer by your Ministry / Department may be intimated to the Commission in about two-weeks' time. It is also requested that the public authorities within your jurisdiction may also be similarly instructed.

11. A portal is being set-up for uploading all the Section-4-compliance-related information. The idea is that an average citizen should be able to see for himself as to how public authorities have progressed in complying with the transparency obligations cast on them by Section 4 of the RTI Act. The details about the portal being developed shall be sent to you separately.

12. For the purpose of uploading information, a format has been devised, which is enclosed. It is requested that your Ministry/Department as well as all public authorities under your jurisdiction may be instructed that the information relating to Section 4-compliance should be put-up on the portal in the format prescribed and annexed.

13. It is requested that, given the importance of this initiative for promoting not only transparency, but overall good governance, this matter may kindly receive your personal attention and necessary instructions be issued to all concerned about implementing the Commission's directive within the prescribed time-schedules.

14. Any clarification with regard to the Commission's directive and its implementation may be obtained from Shri Aakash Deep Chakravarti, Joint Secretary (Legal) (Tel. No. (011) 26105021 and e-mail [aakash.dc@nic.in](mailto:aakash.dc@nic.in)) or Shri Pankaj Kumar Pandey Shreyaskar (Tel. No. (011) 26717354 and e-mail: [pkp.shreyaskar@nic.in](mailto:pkp.shreyaskar@nic.in)).

15. I shall be grateful, if this communication is acknowledged.

**Enclosures:-**

1. Commission's directive dated 15.11.2010
2. Format for uploading Section 4 information

Sincerely,

(B.B. SRIVASTAVA)

All Secretaries to the Government of India

**CENTRAL INFORMATION COMMISSION**  
**New Delhi**

CIC/AT/D/10/000111  
Dated 15.11.2010

**Implementation of Section 4 of the RTI Act**

**Direction to Public Authorities u/s 19(8)(a) of RTI Act**

Commission has been noting in its decisions that although the RTI Act has now been in place for five years, a key element of the law – voluntary disclosure by public authorities, enshrined in Section 4 of the Act – has not been fully implemented in letter and spirit. There are, no-doubt, departments and public authorities, which are more transparent and open than the others, but most do not conform to the matrix of disclosure set-out in Section 4.

2. Transparency has not become such a good idea because of the presence of the RTI Act, but it is good because transparency promotes good governance. Of the records, documents and files held by public authorities, a very large part can be made available for inspection, or be disclosed on request to the citizens, without any detriment to the interest of the public authority. This has not been done, or has still not been systematically addressed, largely because of an intuitive acceptance of secrecy as the general norm of the functioning of public authorities. This mental barrier needs to be crossed, not so much through talks and proclamation of adherence to openness in governance, but through tangible action – small things, which cumulatively promote an atmosphere of openness.

3. Section 4 of the RTI Act randomly lists out some of these steps / actions.

4. The following aspects need to be noted:-

(i) Secrecy in the functioning of the public authority should be the exception and not the norm, since as stated in the Preamble to the RTI Act, transparency of information is vital to a functioning democracy.

(ii) Oftentimes public authorities are unable to decide on what records and documents to be made public, or what parts of its action to be made open, mostly because of poor record-management-practices, which make it difficult to take focused decisions about what records to be made routinely available to the public.

Therefore, the first step towards promotion of transparency in the functioning of the public authority should be an improvement in the record-management practices. Section 4 lists-out the ingredients of record management in some detail.

(iii) When the record management practices are fully established in the public authority, the next step is to categorize the documents in terms of what can be disclosed voluntarily and what cannot be voluntarily disclosed.

The second category could be some sort of a negative list – a list of documents which a public authority is not in a position to bring into the open-category straightaway, but would examine its disclosure under RTI Act.

- (iv) The record-management practice, as much as possible, should be technologically driven. Technology should be used for efficient and wide dissemination of information subject to availability of resources and know-how.

This is an additional requirement to the proper record-management practice commended by Section 4.

- (v) While Section 4 enjoins public authorities to perform certain tasks for voluntary disclosure of information within 120 days of the commencement of the Act, i.e. on 12<sup>th</sup> October, 2005, it allows them “reasonable time” for putting in place a good record management practice supported by technology.
- (vi) Section 4 also enjoins Public Authorities to update the proactive disclosures every year.

5. The time has come now when the public authorities must start a sustained drive to inform their governance practices with transparency and to take the series of small steps required to put in place a system which promotes it. Section 4 provides only a window to possible actions and, much more will need to be done in order to achieve the type of goals which are envisaged.

6. Therefore, by powers vested in the Commission by Section 19(8)(a) of the RTI Act, we direct that the obligations set out in Section 4 of the

Act be discharged by the public authorities as per the time-limits set out against each activity.

I. Record Management Obligation:

*Section 4(1) states that every public authority shall –*

*a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;*

This translates into the following action points:-

1. Catalogue records and index them for easy dissemination and disclosure.
2. Computerize records in a phased manner subject to availability of resources.

Similar obligation is also cast on public authority by Section 4(1)(b)(vi) and Section 4(1)(b)(xiv), which enjoin publishing within one hundred and twenty days from the enactment of this Act,–

*(vi) a statement of the categories of documents that are held by it or under its control;*

*(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;”*

It is directed that all public authorities implement the above obligations within 6 months (except for no.2 above).

## II. Personnel related details and functions of public authorities:

The relevant portions of Section 4 calls upon public authorities to carry out the following:-

*“b) publish within one hundred and twenty days from the enactment of this Act,—*

*(i) the particulars of its organisation, functions and duties;*

*(ii) the powers and duties of its officers and employees;*

*(iii) the procedure followed in the decision making process, including channels of supervision and accountability;*

*(iv) the norms set by it for the discharge of its functions;*

*(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;*

*(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;*

*(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;*

*(ix) a directory of its officers and employees;*

*(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;*

*(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;*

*(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;*

*(xiii) particulars of recipients of concessions, permits or authorisations granted by it;*

*(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;*

*(xvi) the names, designations and other particulars of the Public Information Officers;*

*(xvii) such other information as may be prescribed; and thereafter update these publications every year;”*

7. Public authorities were to have implemented these obligations within 120 days of the coming into force of the RTI Act on 15<sup>th</sup> June, 2005. In our experience, the action in this regard has been rather tardy. It is time that these directives of the law are fully implemented in a systematic manner through time-bound action. Commission, therefore, directs that these actions as ordained above shall be completed by all public authorities within a period of 120 days from the date of this order.

8. Commission further directs that,

(i) The information in compliance with Section 4 obligation by public authorities shall be uploaded on a portal to be set up exclusively for this purpose by the CIC.

(ii) Within 30 days of this order, each public authority shall designate one of their senior officers as “TRANSPARENCY OFFICER” (with all necessary supporting personnel), whose task it will be

- (a) to oversee the implementation of the Section 4 obligation by public authorities, and to apprise the top management of its progress.
  - (b) to be the interface for the CIC regarding the progress of (a).
  - (c) help promote congenial conditions for positive and timely response to RTI-requests by CPIOs, deemed-CPIOs.
  - (d) to be a contact point for the public in all RTI-related matters.
- (iii) Names of the Transparency Officers shall be communicated to the Commission by public authorities.

9. Commission wishes to emphasise, that as laid-down in Section 4(2) of the RTI Act, it should be the constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo-motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

10. Unless the key requirements of Section 4 are fully met by the public authorities 'suo-motu', the objectives of this Act as enshrined in

its Preamble and Section 4 itself cannot be realized. Hence this directive.

11. Each Ministry or Department shall forward the directives to Public Authorities under their jurisdiction exercisable under Section 25(2) of RTI Act, 2005.

( A.N. Tiwari )  
Chief Information Commissioner

(Annapurna Dixit) (Satyananda Mishra) (M.L. Shjarma)  
Central Information Commissioner Central Information Commissioner Central Information Commissioner

(Shailesh Gandhi) (Sushma Singh) (Deepak Sandhu)  
Central Information Commissioner Central Information Commissioner Central Information Commissioner

Authenticated By :-

( Aakash Deep Chakravarti )  
Joint Secretary(Law) & Additional Registrar