

Day 3

Module I

Introduction to Right to Information

Chapter 3

Preamble and Key Concepts of 'The RTI Act, 2005'

Chapter Scheme

- ☐ List of Abbreviations / Acronyms.
- ☐ Long Title of the 'RTI Act, 2005'.
- ☐ The Preamble.
- ☐ Key Facts and Salient Features of the 'RTI Act, 2005'.
- ☐ Shifts.
- ☐ Rights Conferred on Citizens.
- ☐ Some Key Concepts / Definitions in the 'RTI Act, 2005'.
- ☐ Some Related Frequently Asked Questions (FAQs).
- ☐ References.

List of Abbreviations / Acronyms

<i>APIO(s)</i>	Assistant Public Information Officer(s)	<i>PIO(s)</i>	Public Information Officer(s)
<i>IC(s)</i>	Information Commission(s)	<i>RTI</i>	Right to Information
<i>NGO</i>	Non Government Organisation	<i>Ss</i>	Section(s)
<i>PAs</i>	Public Authority / Authorities	-	--

Long Title of the 'RTI Act, 2005'...

An Act to provide for setting out
*the **practical regime** of right to information for citizens
to secure access to information under the control of
public authorities, in order **to promote transparency
and accountability** in the working of every public
authority,*
*the **constitution of a Central Information Commission
and State Information Commissions** and for matters
connected therewith or incidental thereto.*

Official Citation...

THE RIGHT TO INFORMATION ACT, 2005

No. 22 of 2005

The Preamble...

- The Preamble explains the rationale and the objectives for enacting the 'RTI Act, 2005 thus:

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

The Preamble.....II

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

The Preamble.....III

NOW, THEREFORE it is expedient to provide for furnishing certain information to citizens who desire to have it.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

The Preamble.....IV

- Key points emerging from the Preamble:
 - Informed citizenry, resulting due to transparent governmental functioning, and demanding accountability of government is a must in a democracy.
 - A practical regime of RTI would need to balance 'people's right to know' with the 'public interest' in 'confidentiality of sensitive information' and in 'efficient and resource-optimising functioning of Government'.

RTI means that:...

- ❑ Citizens have a right to access information held under the control of Public Authorities.
- ❑ Citizen's awareness increases along with their ability to exercise their other rights.
- ❑ Citizen's are equipped to participate meaningfully in the development process

Key Facts and Salient Features of the 'RTI Act, 2005'...

- The 'RTI Act, 2005' is a national legislation. It is a law passed by the Parliament of India
- The 'RTI Act, 2005' extends to the whole of India except the State of Jammu and Kashmir
- The 'RTI Act, 2005' comes into full force on 12th October, 2005
- The Act has a Preamble
- The Act has 6 Chapters and 2 Schedules
- The Act has 31 Sections. Most sections have several sub-sections
- It is the CITIZENS who, subject to the provisions of the 'RTI Act, 2005' have the right to information

Key Facts and Salient Features of the 'RTI Act, 2005'II

Before approaching specific Sections (Ss), it would be helpful to enumerate the salient features of the 'RTI Act, 2005', which relate to the objects that are reflected in the Preamble. These are:

- Maximum disclosure
- Duty to publish
- Suo motu and web-based disclosures
- Duty to furnish

Key Facts and Salient Features of the 'RTI Act, 2005'

III

- **Exemptions** - Specific class and prejudice based, qualified and time limited.
- Covers private body and third party information.
- Penalty for non-compliance
- Independent and non-judicial appellate mechanism.
- Empowerment of citizens
- The provisions of the Act are over-riding in character.

Shifts...

S. No	BEFORE	AFTER
1	Flow of Information Inwards (Superiors)	Outwards (Citizen)
2	From Information	To accountability and beyond
3	Legal Entitlement	Tool to fight corruption & arbitrary use of Power
4	Arbitrariness	Ethical and participatory democracy

Records Management

Setting performance standards
(Optional)

Compulsory

Storage driven

Retrieval driven

Rights Conferred on Citizens...

- ☐ Make a request to PIO or APIO.
- ☐ Choose medium of request.
- ☐ Choose language of request.
- ☐ Seek exemptions for fee.
- ☐ Seek help for writing request.
- ☐ Reason for request not required.
- ☐ Receive information, if request is transferred.
- ☐ Presumption of refusal and consequent right to complaint / appeal.

Rights Conferred on Citizens.....II

- Knowing costing details.
- Waiver of costs
- Reasons for rejection of request
- Know details to proceed with appeal
- Choose medium of response to be received, including sample
- Partial access to records with reasons on limits to access
- Complaints appeal against refusal / rejection of request or unreasonable fee

Rights Conferred on Citizens.....III

- ☐ Appeal / Second appeal
- ☐ Influence penalty / disciplinary action against PIO
- ☐ Force burden of proof on PIO
- ☐ Demand third party and private party information
- ☐ Demand on-site inspection
- ☐ Demand compensation

Some Key Concepts / Definitions in the 'RTI Act, 2005'...

Chapter I of the 'RTI Act, 2005', titled '**Preliminary**' defined various terms used in the Act. **Note:** Some of these terms have been defined here. Others will be defined in the latter modules, chapters, which would discuss their various aspects in detail.

information defined in **[S. 2(f)]** as any material in any form includes:

records	opinions	orders	papers
documents	advices	logbooks	samples
memos	press releases	contracts	models
e-mails	circulars	reports	data material held in any electronic form
information relating to any private body which can be accessed by a PA under any other law for the time being in force			

Some Key Concepts / Definitions in the 'RTI Act, 2005'

II

record defined in [S. 2(i)] includes:

any document, manuscript and file	any microfilm, microfiche, and facsimile copy of a document	any reproduction of images or images embodied in such microfilm (whether enlarged or not)	Any other material produced by a computer or any other device.
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Note: As mentioned earlier, 'record' is included in the definition of 'information'.

Some Key Concepts / Definitions in the 'RTI Act, 2005'III

right to information defined in [S. 2(j)] means the right to access information held by or under the control of any PA. It includes the right to:

- (i) **inspection** of work, documents or records
- (ii) **taking notes, extracts or certified copies** of documents or records
- (iii) **taking certified samples** of material
- (iv) **obtaining information** – stored in a computer or in any other device – **in the form of diskettes, floppies, tapes, video cassettes or in any form electronic mode or through print outs.**

Note: The above definition read together with the definitions of *information* and *record* enable a citizen to have a very expansive RTI held by or under the control of PAs

Some Key Concepts / Definitions in the 'RTI Act, 2005'

IV

third party defined in **[S. 2(n)]** *means a person other than the citizen making a request for information and includes a PA*

third party information [S. 11(1)] is any information or record, or part thereof supplied by a third party and treated by it as confidential

prescribed a term used at several places in the Act – as defined in **[S. 2(g)]** of the Act means *prescribed by rules made under this Act by the appropriate government or the competent authority as the case may be*

Note: The terms appropriate government and competent authority have been defined in Chapter 1, Module II.

Some Related Frequently Asked Questions (FAQ)s...

Q. Can a citizen request for information as an office bearer of an association?

A. Paragraph 8 of the '*Guide for the Public Authorities-Guidelines for the public authorities under the Right to Information Act, 2005*', published by Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pensions, Government of India

(O.M.No.1/4/2008-IR dated: 25th April, 2008)

states as follows:

"The Act gives the right to information only to the citizens of India..."

Some Related FAQsII

...It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens...

However, if an application is made by an employee or office bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc."

Some Related FAQs.....III

In a decision on 27.06.2006, the CIC had decided that PIO can decline information under section 3, if the applicant applies as a Managing Director of a company and not a citizen of India. [CIC\OK\A\2006\00121 - 27 June, 2006].

Later, however, on 25.10.2006, CIC decided that even if information is sought by an office bearer of an Association/Union, the same should be treated as valid in terms of the provisions of the RTI Act. [139/ICPB/2006-25.10.2006].

Some Related FAQs.....IV

Q. Are 'File Notifications' included in the definition of information?

A. *The Full Bench of the Central Information Commission consolidated CIC's stand on disclosure of file notings in Pyare Lal Verma v. Ministry of Railways (Appeal No.CIC/OK/A/2006/00154 dated 29.1.2007) as follows:*

"...[N]ote sheets containing "file notings" are an integral part of a file. In terms of Section 2(i), a record includes a file and in terms of Section 2(j) right to information extends to accessibility to a record. Thus, a combined reading of Sections 2(f), (i) & (j) would indicate that a citizen has the right of access to a file of which the file notings are an integral part...

Some Related FAQs.....v

...If the legislature had intended that “file notings” are to be exempted from disclosure, while defining a “record” or “file” it could have specifically provided so.

Therefore, we are of the firm view that, in terms of the existing provisions of the RTI Act, a citizen has the right to seek information contained in “file notings” unless the same relates to matters covered under Section 8 of the Act.”

... ‘notings’ are an inextricable part of a record as defined u/s 2(f) and further defined u/s 2(i)(a) of the Act unless it had been specifically exempted”...

Some Related FAQs.....VI

...In fact Joint Secretary Shri Ramanujam of the DoPT stated that nowhere has DoPT said that no one should disclose the “file noting” and that they have not stopped any public authority from disclosing “file noting”.

DoPT has further clarified its position in its Office Memorandum No.1/20/2009-IR, dt. 23.06.2009 saying that: “file noting can be disclosed except file containing information exempt from disclosure under Section 8 of the Act”.

http://persmin.gov.in/WriteData/CircularNotification/Scan Document/RTI/1_20_2009_IR_1.pdf

References

- 'Right to Information Act', 2005 – Bare Act.

A soft copy is available on this website. It is downloadable. Note: The bare Act will be a key reference for this and all the later chapters of this course.

Downloadable soft copies of the Act are also available on www.rti.gov.in (Official website of the GoI on RTI. It has other useful information as well), www.cic.gov.in (Website of the Central IC), www.rti.org.in (Portal on RTI).

To access these other links, please copy and paste the link(s) in a new browser window. Do not close the existing window.

These and other related resources may also be accessed from the websites of The various State ICs (where available). Links to the State IC websites are available on the website of the Central IC.

End of Chapter 3

End of Module I

You must take the Quiz for this Chapter before
proceeding to the next Module!