

Day 6

Module II

Implementation of RTI Regime – Roles and Responsibilities of Key Actors

Chapter 6

Information Commissions

Chapter Scheme

- ❑ List of Abbreviations / Acronyms.
- ❑ What is an Information Commission (IC)?
- ❑ Central Information Commission (CIC) & State Information Commissions (SICs).
- ❑ Powers & Functions of ICs.
- ❑ References.

List of Abbreviations / Acronyms

<i>APIO(s)</i>	Assistant Public Information Officer(s)	<i>PA(s)</i>	Public Authority / Authorities
<i>CIC</i>	Central Information Commission	<i>PIO(s)</i>	Public Information Officer(s)
<i>IC(s)</i>	Information Commission(s)	<i>RTI</i>	Right to Information
<i>LA</i>	Legislative Assembly	<i>SIC(s)</i>	State Information Commission(s)
<i>LS</i>	Lok Sabha	<i>Ss</i>	Section(s)

What is an Information Commission (IC)?

- ❑ The long title of the 'RTI Act, 2005' refers to the ICs stating that it is an Act for

setting out a practical regime of right to information...

...the constitution of a Central Information Commission and State Information Commission and

matters connected therewith or incidental thereto

The long title conveys that the institution of IC is a vital aspect of the practical regime envisaged under the Act

What is an IC?II

- ❑ Central IC and Central Information Commissioners are defined in S. 2(*b*) & (*d*) of the 'RTI Act, 2005'. S. 12(*1*) & (*3*) deal with constitution of the Central IC and appointment of the Central Information Commissioners
- ❑ Similarly, State ICs and State Information Commissioners, are defined in S. 2(*k*) & (*l*). S. 15(*1*) & (*3*) deal with the constitution of the State IC and appointment of the State Information Commissioners.

Central IC...

S. 12(1) provides that the Central IC shall be constituted by the Central Government by notification in the Official Gazette to exercise the powers conferred and the functions assigned under the 'RTI Act, 2005'.

(Central IC was constituted on 11th October, 2005)

□ It shall consist of –

- the Chief Information Commissioner; and
- such number of Information Commissioners, not exceeding ten, as may be deemed necessary.
[S. 12(2)]

Central IC.....II

- ❑ Chief Information Commissioner & Other Information Commissioners shall be appointed by the President on the recommendation of a Committee consisting of
 - Prime Minister (as Chairperson); and
 - Leader of Opposition in the Lok Sabha (LS) [– if not recognised, Leader of the single largest group in Opposition in LS]; and
 - A Union Cabinet Minister (nominated by the Prime Minister). **[S. 12(3)]**

State Information Commissions (SICs)...

S. 15(1) provides that every State Government shall constitute a SIC by notification in the Official Gazette (indicating the name of the State) to exercise the powers conferred and the functions assigned under the 'RTI Act, 2005'. **(Thus, 27 SICs have been constituted – 1 in each State, except the State of Jammu & Kashmir where the Act doesn't extend.)**

□ They shall consist of –

- the State Chief Information Commissioner; and
- such number of State Information Commissioners, not exceeding ten, as may be deemed necessary. **[S. 15(2)]**

State ICs.....II

- ❑ State Chief Information Commissioner & Other State Information Commissioners shall be appointed by the Governor on the recommendation of a Committee consisting of
 - Chief Minister (as Chairperson); and
 - Leader of Opposition in the Legislative Assembly (LA) [– if not recognised, Leader of the single largest group in Opposition (LA)]; and
 - A Cabinet Minister (nominated by the Chief Minister). **[S. 15(3)]**

CICs and SICs...

- The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central IC autonomously without being subjected to directions by any other authority under the 'RTI Act, 2005' [S. 12(4)].

CICs and SICs.....II

- As per **s. 12 (5)**, the Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in
- law,
 - science and technology,
 - social service,
 - management,
 - journalism, mass media or
 - administration and governance.

[The members should not hold Office of Profit. S. 12(6)]

CICs and SICs.....III

- ❑ The Act provides that the **headquarters of the CIC** shall be at Delhi and offices may be established at other places in India, **with the previous approval of the Central Government**, establish offices at other places in India. **[S. 12(7)]**
- ❑ **State IC headquarters, would be at such a place as notified by the State Government.** For a State IC to establish offices at other offices, previous approval of the State Government would be required.

Note: S.s 15(4), (5) & (6), *which refer to State ICs and Commissioners* are similar to S. 12(4), (5) & (6)

CICs and SICs.....IV

Note: Only the key aspects of the provisions pertaining to the Terms of Office and Conditions of Service of the Information Commissioners have been included here from slide 14 – slide 17.

Details regarding these matters can be perused from the Bare Act.

CICs and SICs.....v

- ❑ Term of Office for all Information Commissioners is 5 years. Reappointment, as such, has not been provided for.
- ❑ Central / State Information Commissioners can be appointed as Chief Information Commissioners provided that the term of office (for both the positions) shall not be more than 5 years in aggregate.
- ❑ Retirement age for all Information Commissioners is 65years.

S.s 13(1) & (2) & 16(1) & (2)

CICs and SICs.....VI

- ❑ Salaries and allowances payable to Information Commissioners [as per S. 13(5) & 16(5)] are as follows:

Salary & Allowances of...	same as that of...
Chief Information Commissioner	Chief Election Commissioner
Central Information Commissioners	Election Commissioner
State Chief Information Commissioner	Election Commissioner
State Information Commissioners	Chief Secretary to the State Government

CICs and SICs.....VII

- ❑ Information Commissioners can be removed from office by an order passed by the President or the Governor of the State – as applicable if the incumbent:
 - is adjudged an insolvent
 - has been convicted of an offence which, in the opinion of the removing authority involves moral turpitude

CICs and SICs.....X

- engages in paid employment during the term of office outside the duties of the office
- is, in the opinion of the removing authority unfit to continue in office due to infirmity of mind / body
- has acquired a financial interest as is likely to affect prejudicially the functions as a Commissioner

S.s 14(3) & 16(3).

Functions & Powers of ICs...

- It shall be the duty of the Central / State IC, as the case may be, to receive and inquire into a complaint from any person for reasons specified in S. 18 (1)(a)–(f) of the 'RTI Act, 2005'. **[S. 18(1)]**

Note: Details about the grounds on which a citizen can make a complaint to an IC have been provided in Chapter 9 of Module III.

Functions & Powers of ICs.....II

- ❑ Where the Central / State IC, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.
- ❑ IC shall, while inquiring into any matter under this u. S. [S.18(3)], have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure.

Note: Details about the powers of an IC in inquiring into any matter under [S.18(3)] have been provided in Chapter 9 of Module III.

Functions & Powers of ICs.....III

- Any person who does not receive a decision within the time specified in 7(1) or S. 7(3)(a) or is aggrieved by a decision of the Central / State PIO may

within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to the First Appellate Authority

Likewise, a third party can also, within 30 days, make an appeal against the order of a Central / State PIO to disclose third party information...

This has also been covered in the previous chapter of this Module.

Functions & Powers of ICs.....IV

- ❑ A **second appeal** against the decision under S. 19(1) [i.e. the decision of an FAA] shall lie, with the Central / State IC, within 90 days from the date on which the decision should have been made or was actually received,
- ❑ Central / State IC, as the case may be, may admit the appeal after the expiry of the period of 90 days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time **[S. 19(3)]** .

Functions & Powers of ICs.....v

- Similarly, second appeals by a third party may also lie with the Central / State IC, as the case may be,

in which case, the IC shall give a reasonable opportunity of being heard to that third party.

[S. 19(4)]

Functions & Powers of ICs.....VI

- In their decision, which are binding, Central / State IC has powers to require the PA to take any such steps as may be necessary to secure compliance with the provisions of the 'RTI Act, 2005'

[S. 19 (7) & (8)(a)].

Note: Details about the powers of an IC in inquiring into any matter under **[S.18(3)]** have been provided in Chapter 9 of Module III.

Functions & Powers of ICs.....VII

- ❑ 'RTI Act, 2005' does not apply to certain Intelligence and security Organisations established by the Central Government specified in the Second Schedule of the Act.

RTI Act does not apply to the information furnished by these organisations to the Central Government either...

[S. 24(1)]

Functions & Powers of ICs.....VIII

- ❑ Similar exemption is available to intelligence and security organisations established by the State Government, as the Government may from time-to-time notify. [S. 24(4)]
- ❑ However, information pertaining to allegations of corruption and human rights violations shall not be excluded under S. 24(1) & (4)]. [24(1) & (4)]

Note: When it comes to information pertaining to allegations of violation of human rights, it shall only be provided after approval of the Central / State IC concerned and within 45 days. [S. 24(1) & (4)]

Functions & Powers of ICs.....IX

- As part of their Monitoring and Reporting responsibility, every IC shall,
 - after the end of each year,
 - prepare a report on the implementation of the provisions of this Act and
 - forward a copy thereof to the appropriate Government... [S. 25(1)]

Functions & Powers of ICs.....x

- ❑ Each report shall state in respect of the year to which the report relates,—
 - (a) the number of requests made to each public authority;
 - (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;

Functions & Powers of ICs.....XI

- (c) the number of appeals referred to the Central / State IC, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
- (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
- (e) the amount of charges collected by each public authority under this Act;

Functions & Powers of ICs.....XII

- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
- (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

Functions & Powers of ICs.....xv

- If it appears to the Central / State IC that the practice of a PA in relation... exercise of its functions... does not conform with the provisions or spirit of the 'RTI Act, 2005',

it may give... a recommendation specifying the steps which ought... to be taken for promoting such conformity **[S. 25(5)]**.

References

- ☐ 'Right to Information Act', 2005 – Bare Act. **A soft copy is available on this website. It is downloadable.**
- ☐ www.rti.gov.in
- ☐ www.cic.gov.in
- ☐ CIC websites provide keyword search facility

Note: Decisions of the ICs on complaints and appeals are an important resource for developing an understanding about the Act and its effective implementation.

We strongly recommend that implementing the Act getting all stakeholders and especially the PIOs and FAAs visit the websites of the ICs concerned and keep themselves updated about the latest developments and decisions.

End of Chapter 6

End of Module II

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