

Day 12

Module IV

Exemptions and Other Miscellaneous Provisions

Chapter 12

Other Miscellaneous Provisions

Chapter Scheme

- ❑ List of Abbreviations / Acronyms.
- ❑ Sections 21, 22, 23, 29, 30 and 31.
- ❑ 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(s)</i>	Non Government Organisation(s)	<i>S(s)</i>	Section(s)
<i>PAs</i>	Public Authority / Authorities	<i>u.S</i>	under Section

Note...

Chapter VI of the 'RTI Act, 2005' is titled '**Miscellaneous**'.

However, several sections (i.e. 24, 25, 26 & 27) of this Chapter have been covered earlier in this Coursework because they pertained to topics covered in the earlier module of parts of this module.

Here, only those sections (i.e. 21, 22, 23, 29, 30, 31) will be covered that have not been covered earlier.

Protection of action in Good Faith [Section 21]...

- No suit, prosecution or other legal proceeding shall lie against any person for **anything which is done in good faith**

or

is intended to be done

under the 'RTI Act, 2005' or any rule made there under.

RTI Act, 2005 has an Overriding Effect [Section 22]...

- The provisions of the 'RTI Act, 2005' is shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 1923), and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

This implies that the provisions of the Act are overriding in character, so that the scheme is not subverted through the operation of other minor Acts.

Bar of Jurisdiction of Courts [Section 23]...

- ❑ No court shall entertain any suit, application or other proceeding in respect of any order made under the 'RTI Act, 2005' and no such order shall be called in question otherwise than by way of an appeal under the 'RTI Act, 2005'.
- ❑ The Jurisdiction of subordinate courts has thus been barred.

Section 29[1]...

- Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,...

Section 29[1].....II

both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so,

however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Section 29[2]...

- Every rule made under the 'RTI Act, 2005' by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

Section 30(1)...

- If any difficulty arises in giving effect to the provisions of this Act,

the Central Government may, **by order published in the Official Gazette,**

make **such provisions not inconsistent** with the provisions of the 'RTI Act, 2005'

as appear to it to be **necessary or expedient for removal of the difficulty:**

Section 30(1).....II

Provided that no such order shall be made
after the expiry of a period of two years
from the date of the commencement of the
'RTI Act, 2005'.

Section 30(2)

- Every order made under this section [i.e. s. 30(1)] shall,

as soon as may be after it is made,

be laid before each House of Parliament.

Section 31

- The Freedom of Information Act, 2002 [Act 5 of 2003] is hereby repealed.

Some Related Frequently Asked Questions (FAQs)...

Q. If the law under which PSUs are formed does not allow access to information to people like agendas of Board Meetings etc. should such information be given under the 'RTI Act, 2005'?

A. Yes. The 'RTI Act, 2005' overrides any / all such law(s). Hence, such information must be disclosed, unless it is exempted under the specific provisions of the said Act.

Some Related FAQsII

Q. A PIO had furnished information as per the available records and subsequently it turns out that such information is false, misleading or wrong. Will the PIO be penalised even when he was not responsible for the creation of the record?

A. Where a PIO has taken an 'action in good faith', he / she is protected under the Act. The PIO must prove that neither has he / she acted in a malafide manner nor has he / she provided wrong information intentionally. He / She had only passed on the information collected from another officer or compiled and recorded by another officer.

Some Related FAQsIII

Q. An applicant claims that he had not received the intimation letter from a PIO and files an appeal with the FAA / IC. Is the PIO liable?

A. It is advisable that a PIO always maintain a copy of the intimation letter to defend her / himself in such cases. It is always better to send the intimation letters Under Certificate of Posting so that there is ample proof of dispatch of all such communication.

As long as the PIO can prove that he had acted in good faith, he / she will not attract any penalty.

Some Related FAQsIV

Q. Can the citizen approach the Courts for redressal under the Act?

A. The 'RTI Act, 2005' bars the courts from entertaining suits, applications or other proceedings against any order made under it.

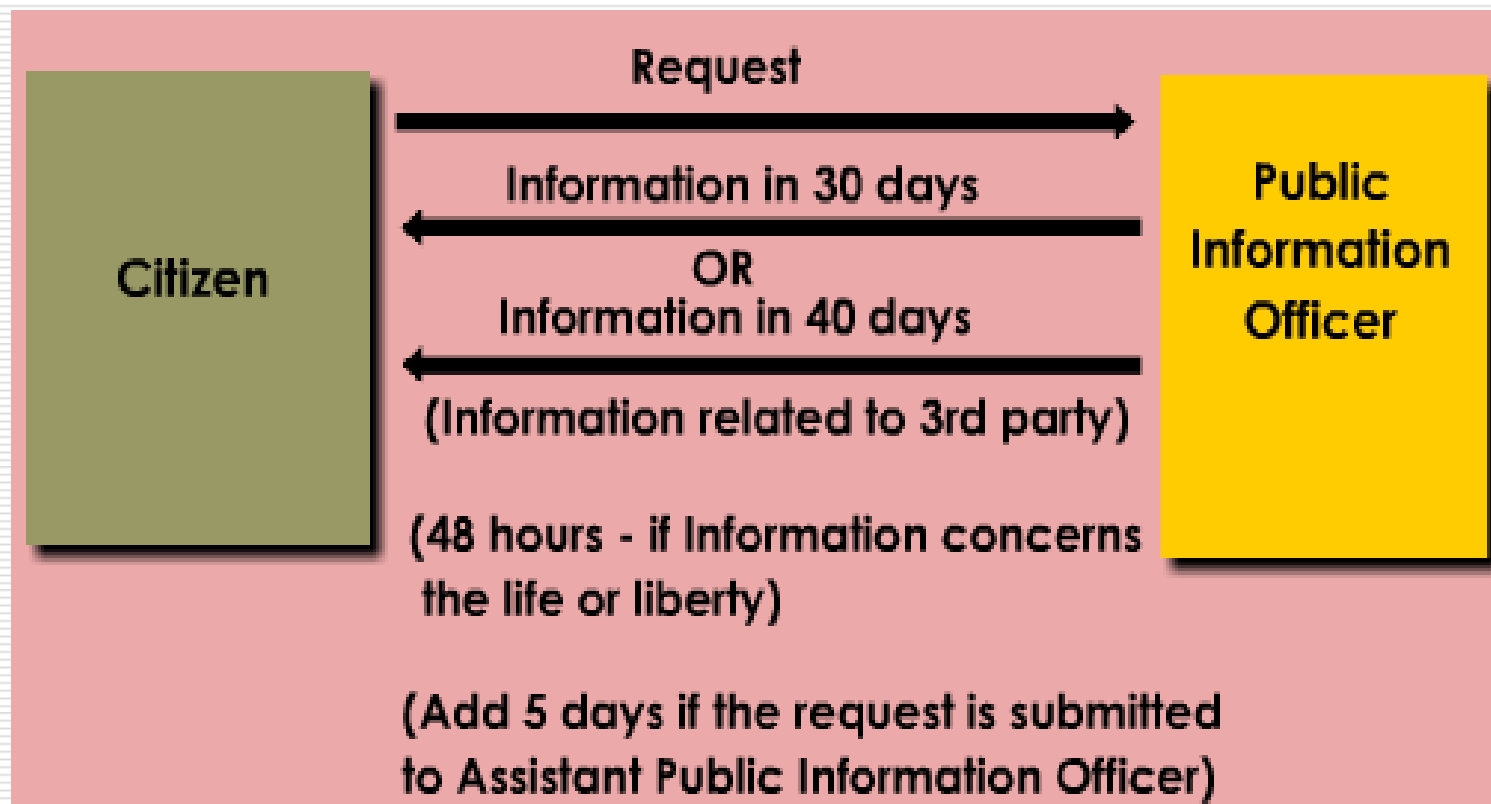
However, the respective writ jurisdictions of the Supreme Court and the High Court under Articles 32 and 226 of the Constitution remain.

References

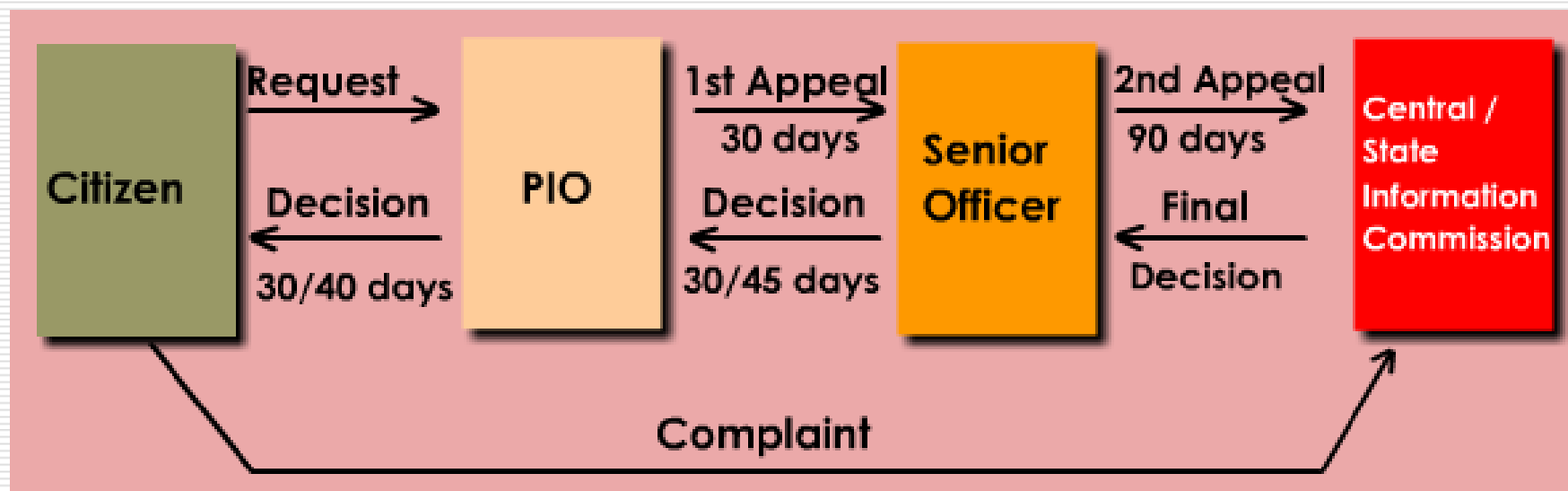
- ❑ 'Right to Information Act', 2005 – Bare Act. A soft copy is available on this website. It is downloadable.
- ❑ www.rti.gov.in
- ❑ www.cic.gov.in

End of Chapter 12

Illustrated Summary of the Process of Requesting Information...



Illustrated Summary of the Process of Requesting Information and Preferring Appeals / Making Complaints...



End of Module IV

You must take the Quiz for Chapter 12 before
you can proceed to the next stage i.e. the
'Online Examination'!