

RTI FAQ

1. When did the Right to Information Act, 2005 come into force ?

The Right to Information Act came into force fully on the 12th October, 2005 (120th day of its enactment i.e., 15th June, 2005). Some provisions came into force with immediate effect viz. obligations of public authorities [Section 4(1)], designation of Public Information Officers and Assistant Public Information Officers [Sections 5(1) and 5(2)], constitution of Central Information Commission [Section 5(1) and 5(2)], constitution of Central Information Commission [Sections 12 and 13], constitution of State Information Commission [Sections 15 and 16], non-applicability of the Act to Intelligence and Security Organisations [Section 24] and power to make rules to carry out the provisions of the Act [Sections 27 and 28].

2. Are “file noting” included in the definition of Information ?

Section 2 (f) of the RTI Act defines ‘information’ which includes ‘record’ Section 2(i)(a) states that a ‘record’ includes any document, manuscript and file. The operative definition of a ‘file’ is given in the Manual of Office Procedure prepared by the Central Secretariat, Government of India. the definition of ‘file’ in the Manual includes ‘notes’ and ‘appendices to notes’. In CIC Decision No. ICPB/A-1/CIC/2006 dt.31.01.2006, the CIC held that “file notings are not, as a matter of law, exempt from disclosure”. Thus, file notings can be disclosed under the Act.

3. Can Government officers get access to Annual Confidential Reports (ACRs) under the RTI Act ?

As per decision No.18/IC(A)/2006 dt.28.03.2006, the CIC held that “the assessment reports by the superior officers are personal and confidential information and therefore exempted under Section 8 (1)(j) of the RTI Act”. In the case stated above, the Central Information Commission upheld the public authority’s (Indian Oil Corporation’s) decision that ‘Annual Performance Appraisal Reports’ cannot be shared as they are confidential in nature.

4. Is it enough to publish information under Section 4(1)(b) only once at the time of the commencement of the RTI Act ?

No. The Act required that every public authority has to update its publications under Section 4(1)(b) every year. The Central/State Government/Departments will have to come out with general instructions for time-bound updating of all categories of information, including formats for publication. Every public authority may in turn publish updated information that is specific to its functions following the guidelines.

5. If the same kind of information is sought by more than one person should it be made available to all such requesters ?

Yes, it has to be made available. However it is advisable that such records be digitised as far as possible and uploaded on the Internet to facilitate easy access.

6. If the information requested by a citizen has already been proactively disclosed can a PIO refuse to accept the request ?

There is nothing in the RTI Act that states that states that information disclosed proactively should not be provided to a citizen on request. If such information is requested the same can be provided in the available formats upon payment of fees/charges at rates prescribed by the Government.

7. If the information requested by the applicant is in the possession of the APIO should he/she not give that information to the applicant ?

Under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith – within five days.

8. What if the applicant claims that he/she did not receive the intimation letter from the PIO and files an appeal with the AO and the Information Commission ? Will the PIO be penalised ?

The PIO would do well to maintain a copy of the intimation letter in his/her records for use in such cases. Furthermore, the PIO may send the intimation letter Under Certificate of

Posting (UCP) to the applicant. This should be ample proof that the PIO had taken action in good faith. The PIO will not attract penalty in such cases.

The law requires that the PIO be given an opportunity to present his/her case before the relevant Information Commission issues a decision imposing penalty. But a default may invite penalty for the PIO.