




OTHER LAWS GOVERNING NEWS GATHERING AND REPORTING

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THE ACCESS TO INFORMATION ACT 2016

This Act was passed by the parliament on 7th September ,2016 and assented by the President on 23rd September, 2016. This is an Act which provides access to information, defines the scope of the information which the public has the right to access, promotes transparency and accountability of the information holders and other related issues.

Right to access information

The Act provides under section 5(1) that every person shall have the right to access information which is under the control of the information holder. This means that the entire public has the right to access information. however, it is important to note that the person has been restricted to a citizen only.in other worlds, only citizen of the United Republic of Tanzania have unfettered access to information.

Request for information

The Act under section 5(2) requires the information holder to make information available to the public or any other person upon request. The request shall be made in a prescribed form as provided in Section 10(1) of the Act unless the person is an illiterate in which case he can make the request orally. The form shall disclose sufficient details to enable the information holder to identify the information sought. also, it shall include the name and address of a person seeking information.it should be noted that the person requesting for information is not required to disclose or to give reason for requesting information or provide any other personal details other than name and address. This is provided under regulation 6 of the Access to Information Regulations, 2017.

After receiving a request for information, the information holder is required to give notice to the person seeking information notice informing him whether the information sought exists and if it does, whether access to information or part thereof can be given and manner of accessing the said information.

The notice shall be given within the period of thirty (30) days after the day of request. This is provided under Section 11(1) of the Act.

In case the information holder refuses to give information or part of it; he is required to give notice to the person requesting information, setting out reasons for such refusal and right of review of the decision. This is provided under section 14(a) &(b) of the Act.

Fee for Accessing Information

Access to Information is not free, the person requesting for information may be charged a reasonable fee which is commensurate to the actual; cost of production of the requested information. This is provided under Section 21 of the Act.

Exempt Information

Note that not all information can be accessed. The Act has exempted certain type of information. this means that the exempted information cannot be accessed by the public. This is provided under Section 6(1) of the Act. This Section empowers the information holders to withhold information under two circumstances.

- i. where the information has been declared exempt under section 6(2) of the Act and
- ii. where the disclosure of information is against public interest

However, regulation 7 of the Access to Information regulation, 2017 provides that if the information sought is exempted under the Act, access may be granted to part of information which can be served from any part which contains exempt information. in other word, this means that if certain part of information can be served from the granted an access to that part. The information holders should not generally refuse to grant access on ground that the information is exempt.

Review of the Decision of the Information Holder

If the person requesting information fees aggrieved by the decision of the information holder, he is entitled to apply for review of the decision to the head of information holder, he is entitled to apply for review of the decision to the head of the relevant institution. The head of institution is required to determine the application within 30 days. In case the person is further aggrieved by the decision of the head of institution, he may appeal to the minister within a period of thirty days from the date the decision was made.

However, if the information requested was under the authority of the information holder who is under the minister, the person aggrieved by the decision of the head of institution shall directly apply for review at the High Court instead of the Minister. These are provided under Section 19(10, (2), (3) and (4) of the Act.

OFFENCES

a) Distortion of Information

Section 18 of the Act restricts the usage of information obtained from the information holder where a person receiving information is required not to distort the information.

The Act further provides that a person who contravenes the requirements of the usage of the information commits an offence and upon conviction shall be liable to imprisonment for a term

not less than two (2) years and not exceeding five (5) years. This is provided under section 18(2) of the Act.

b) Alteration and Defacement

Also, Section 22 makes it an offence for any person who alters defaces blocks erases destroys or cancels any information held by the information holder with an intention to prevent disclosure of that information. And upon conviction, the individual concerned shall be liable for fine not exceeding five (5) million shillings or imprisonment for a term not exceeding twelve (12) months or both fine and imprisonment.

c) Disclosure off the Exempt Information

It is an offence to disclose information which has been listed as exempt under section 6(2) of the Act. This is provided under Section 6(6) of the Act. in case the information disclosed does not relate to national security the convicted person shall be liable to imprisonment for a term not less than 3 years and not exceeding five years. However, if the information disclosed relates to national security, the person shall be changed according to the provisions of the National Security Act.

STATISTIC ACT OF 2015

The Statistics Act of 2015 (specifically in Tanzania) is a legislative framework that formalizes and regulates the collection, processing, analysis, and dissemination of official statistics. It establishes the National Bureau of Statistics (NBS) as the primary, autonomous agency responsible for statistical data, with a key focus on ensuring the integrity, quality, and impartiality of information used for government planning and policy making.

This Act was enacted by the parliament on 26th march,2015 and assented by the president on 25th April ,2015. The Act caters for the national statistic system and establishes an independent bureau that shall regulate the country's statistics. The Act is supplemented by statistic regulation 2017. These regulations have made pursuant to the provisions of Section 38 of the Act.

Continuation of National Bureau of Statistics

Under Section 4(1) of the Act. The bureau of statistics established under the earlier Act continues to exist and shall be known by its acronym NBS. The Bureau is responsible for production coordination supervision and dissemination of official statistics and for the custodianship of the official statistics of the country. This is provided under Section 6(1) of the Act it should be noted

that the Bureau is the only body which has mandate to disseminate official statistics of the country. The statistics or information which the Bureau can collect are listed under the third schedule of the Act.

Meaning of official statistics

“Official statistics “refer to statistics produced validated complied and disseminated by the bureau government institution and agencies. This is provided under Section 20(1) of the Act. Any other statistics which fall outside under this definition are not official statistics. however, it should be noted that statistic issued by agencies shall only qualify to be official statistics if they meet criteria and standards established by the bureau.

Joint collection of information

Section 22 of the Act provides for the joint collection of the information whereas the Bureau is authorized to make an arrangement with the agency or employee of the agency to collect statistical information when the need arises. From this perspective, the agency may be the media service agency, an independent journalist working as a freelancer working with media house. Hence this is where we see the journalist and other media services providers taking part in the collection and gathering of the statistical information for various purposes as indicated in the Act.

Establishment of the sector working group

The provision of Regulation 3 of the statistics Regulation ,2017, empowers the NBS to establish a Sector Working Group based on the nature of the statistics to be produced and which consist of members from the sector ministry or ministries and the Bureau. According to the Regulation, Chairman of the Sector working group shall be appointed by Director General of the NBS from the Sector ministry and the secretary of the Group shall be appointed from the Bureau.

Function of the sector working group

According to the provision of regulation 4(1) the following are the function of the Sector working Group

- ✓ To facilitate coordination and harmonization of statistics within sector
- ✓ To identify skills gaps and propose appropriate capacity building and training programs for employees a within the national statistical system
- ✓ To serve as a forum for discussion of the issues raised by concerned producer’s users and other stakeholders of sectors specific statistic
- ✓ To advice the director general on the best way for resource mobilization
- ✓ To identify data gaps and proposed appropriate means of production and
- ✓ To prepare and submit to the Bureau Sector

Application

Production of official statistics

Regulation 10 compels any agency or government institution intending to commence a survey to make a written application to the Director General of the Bureau, who may approve in writing for commencement of such survey subject to the applicant's fulfillment of the requirements set out in the regulation. Under that arrangement, the collected statistics shall be designated as official statistics once they are approved by the Director General with the official seal before publication.

Offences

Using information for personal gain

This is provided under section 37(1) (a) of the Act. This applies to any person who has obtained information which may affect the market value of any share or security. Product, etc. and before such information is made public uses it for personal gain.

Communication of statistics without lawful Authority

Section 37(1) (b) provides that, any person who without lawful authority publishes or communicates to any person other than those in ordinary courses of employment, any information acquired by him in course of his employment commits an offence which upon conviction shall be liable to a fine of not less than two (2) million or imprisonment to the term of not less than six (6) months or both. This provision applies to a journalist or any other media agency by the Bureau under Section 22 and therefore they cannot publish or communicate information obtained in such course without first getting the authority from the Bureau.

Compiling or issuing false information or statistics

This is provided under section 37(1) (c) of the Act. This specifically relates to an employee who has deserted his duty and made a willfully false declaration or statement or imprisonment to the term of twelve (12) months.

Publication of statistics without lawful authority

Also, Section 37(2) makes it an offence for any person who to his knowledge publishes or communicates the information which he believes to be obtained from the Bureau but in contravention with the Act. And upon conviction such person shall be liable to a fine not less than five million shillings or imprisonment to the term of twelve (12) months.

Broadcasting false statistics or data collection

Activity which is being undertaken by the Bureau

This is provided under section 37(4) of the Act. This offence can be committed by the Director General of the Bureau, controller or any other person concerned with the management of the communication media.

Communication or publication of official statistics

Information which may result in distortion of Facts

This is provided under section 37(5) of the Act. This offence can be committed by an agency or any person. If convicted the punishment is payment of fines not less than ten 10 million shillings or imprisonment for a term not less than three (3) years or both.

CYBER CRIME ACT 2015

The Act was enacted by the parliament on 1st April 2015 and assented by the president on 25th April 2015. THE Act provides for platforms for investigation collection and use of electronics evidence. it was enacted to make provision communication technology together with other related matters.

This ACT too has an impact in the media industry when it comes to online or electronic publication or broadcasting of news via the computer system. From technical point of view this Act provides for various offence which in one way or another affects the media industry. These offences are analyzed hereunder.

Offences

Publication of false information

Section 16 of the Act criminalizes any person who publishes information or data presented in a picture text symbol or any other form in a computer system knowing that such information or data is false deceptive misleading or inaccurate and with intent to defame threaten abuse insult or mislead commits an offence and shall upon conviction be liable to a fine of not less than 5 million shillings or to imprisonment for a term of not less than three 3 years or both.

Transmission of unsolicited messages

Further more the Act criminalizes any person who with intent to commit offences initiates the transaction of unsolicited messages (any electron messages which is not solicited by the recipient), relay or retransmit unsolicited messages or falsify head. information in unsolicited message. This is provided under Section 20(1) of the Act.

Unauthorized access to Data

Offences of this nature are prescribed under section 4,5,6,7 and 8 of the Act. They are generally meant to prohibit access to computer data without an authorization. While this may be fine if locked at casually as far as investigative journalism is concerned.

Publication of pornography and child pornography

Section 13 and 14 of the Act prohibit publication of child pornography and pornography in general via a computer system. There for any publication of picture video or sound with pornography ramification is tantamount to a criminal offence under these section and person so convicted shall be liable to fine as well as imprisonment.

Publication of racist and xenophobic materials

This is provided under Section 17 of the Act. The said section generally prohibit publication through a computer system any materials are racist and xenophobic or in other words, material which promote racism or xenophobia convicted of these offences a person shall be liable to pay a fine of not less than three million shillings or imprisonment for a term not less than one year (1) or both.

Publication of materials inciting genocide and crimes against humanity

In the same vein the Act also prohibits publication of the materials which incite genocide or crimes against humanity. This is provided under section 19 of the Act.