

The Malawi Gazette Supplement, dated 14th January, 2021,  
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(No. 1A<sup>1</sup>)

GOVERNMENT NOTICE No. 1

ACCESS TO INFORMATION ACT

(No. 13 OF 2017)

ACCESS TO INFORMATION REGULATIONS, 2021

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I, GOSPEL IN EXERCISE KAZAKO of the powers conferred by section 55 of the Access to Information Act., Minister of Information make the following Regulations \_\_

PART I \_\_PRELIMINARY

Citation Regulations, 2021. 1. These Regulations may be cited as the Access to Information

Interpretation 2. In these Regulations, unless the context otherwise requires \_\_

information to an information holder. “information seeker” means a person who submits a request for

PART II\_\_INFORMATION OFFICERS INFORMATION, ORGANIZATION AND  
DISCLOSURE OF

officers of information Appointment information officer to the Minister. officer in middle to senior management, as an information officer. (2) 3. The head of the information holder shall submit the name of the (1) The head of an information holder shall appoint or designate an

year. two newspapers of nationwide circulation at the beginning of each

financial (3) The Minister shall publish names of information officers in at least

an information holder shall publish the name and contact details of its

information officer on its website. (4) Notwithstanding the publication made

pursuant to subregulation (3),

Functions of information provided that where this is the case, there shall be clear demarcation of roles and hierarchy of the information officers. (5)4. An information holder may have more than one information officer (1)(a) An information officer shall ensure that an information holder attends to all requests for

officers information within the prescribed time frame;  
information holder that is required to be proactively disclosed;(b) facilitate the publication of information in the custody of the

information holder; (c) facilitate the updating of information on the website of the to ensure that information is accessible; and(d) work with the public relations officer of the information holder of the information holder.(e)

ensure that information that is disclosed is verified by the head

regularly keeps information in an organized and easily accessible manner.5.(2) An information holder shall have an active website which is updated(1) An information officer shall ensure that an information holder Record keeping and maintenance of records

following information(3) A website of an information holder shall have, at a minimum, the

- (a) functions of the information holder;
- (b) institutional set up with information on key officers;

and (c) physical, postal and email addresses of the information holder; (d)

name and contact details of its information officer.

information holder in the manner prescribed by the Minister.6. An information holder shall digitize all records in the custody of the Digitization of records of information

15 of the Act is published within sixty days of generation. 7.\_\_(1) An information holder

shall ensure that the information in section Publication of information shall include the following

information(2) The information holder shall develop an information manual which\_\_

- (a) functions of the information holder; and
- (b) vision and core values of the information holder.

may, on request, provide a hard copy to an information seeker.(3) The information holder shall upload the manual on its website and

television or other relevant media to ensure wide circulation of such do, publish the information in newspapers of nationwide circulation, radio,holder may, where the information holder determines that it is necessary so to information.(4) In addition to provisions of subregulation (3), the information

Availability  
of guides

section 9 of the Act, in English and other local languages.9.\_\_(1) The

Commission shall publish the guide developed pursuant to local languages as

determined appropriate.(2) The Commission may publish the guide in

subregulation (1) in other guide(3)Commission; and\_\_ The Commission shall

make available a copy of the published(((abc))) on the website of the

Commission. to information officers in all information holders; for public

of manuals  
Availability

inspection during office hours at the offices of the

Request hereto, for a copy of the guide made available in a manner other than that (3)  
 for information The Commission may charge a fee prescribed in the First Schedule  
 contemplated in subregulation (2).

pursuant to subregulation (2), ensure that every officer of the informationholder  
 has access to the guide. working days after receipt of the copies of the guide  
 from the Commission (4) An information officer of an information holder shall,  
 within thirty\_\_

(

(5) public inspection, a copy of the guide; An information officer (ab)) shall,  
 during office hours and upon request, make available for shall not charge a  
 fee for public inspection referred to in a); and

paragraph (c) may, in respect of a copy of the guide or part thereof, made

a), available in a manner other than that contemplated in paragraph (charge

the fee prescribed in the First Schedule hereto. (1) An information

holder shall, immediately after an information

to section 16 (3) of the Act, make available a copy of the manual manual is compiled pursuant to section 16 (1) of the Act or updated pursuant<sup>10.a</sup> to the Commission;

(

information holder; and (bc) on the website of the information holder. for public inspection during office hours at the office of the

(

fees prescribed in the First Schedule hereto. that contemplated in subregulation (1), an information holder may charge the (2) Where a copy of the manual is made available in a manner other than

PART IV REQUEST FOR INFORMATION AND DISCLOSURE

out in the Second Schedule hereto. 11. (1) A request for access to information shall be made in Form 1 set

of the information holder. subregulation (1) available electronically and have it uploaded on the website (2) An information holder shall make the application Form in

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holder for the previous year and a work plan for the following year. a financial year, publish a summary annual progress report of the information8. An information officer shall, within three (3) months from the end of work plansreports andAnnual P<sup>ART</sup> III GUIDES AND MANUALS

obtained from the information holder from which information is sought. (3) A hard copy of the Form referred to in subregulation (1), may be

facilitate the processing of the application. description of the information

seeker and the information being requested to(4) A request for access to

information shall contain a sufficient information seeker or the information

sought, the information officer shallrequire the information seeker to provide

further details so as to facilitate processing of the request.(5) Where the request

does not contain sufficient description of the possible, assist the information

seeker to provide the necessary details:requested under subregulation (5), the

information officer shall, so far as (6) Where the information seeker is unable

to provide the details made with assistance. seeker confirms the version of the

request for information which has been Provided that the information officer

shall ensure that the information submit the request in the prescribed Form and

provides an oral request, the oral request shall be reproduced in writing by the

information officer and readout to the information seeker for confirmation.(7)

Where the information seeker shows sufficient reason for failing to

information based solely on the ground that the request was not made in

the prescribed Form. (8) An information officer shall not refuse to grant a

request for access to

illiteracy, disability, indigence or minority. (9) For purposes of subregulation (7), sufficient reason includes

holder. email or in other electronic form to the official channel of an information holder. (1) An information seeker may send a request for information by Electronic request

information holder. the information officer shall print and file the request in the records of the information holder. (2) Where the request for information is submitted in electronic format,

electronic requests for information: (3) An information holder shall set up an auto reply

system for received. request for information within five working days from the date the

request is received. (4) An information officer shall acknowledge receipt of an electronic

Schedule hereto within fifteen days from the date the request for information is

received. refuse access to information to an information seeker in Form 2 in the

Second 13. (1) An information holder shall communicate a decision to grant or a request

for information. Processing of the information seeker the information officer shall, within five

working days of that decision, inform (2) Where an information holder decides to grant

access to information, \_\_\_

disclosure  
of  
Format for  
information

the information; (a) that the record may be examined by the information

order

~~seeker in certain parts of the record to be reproduced;~~ (b) that the

to

information seeker may specify whether he requires only

save

disclosure; reproduction of the record is undertaken or the record is

the

prepared for (c) of any amount required to be paid as a deposit before the

cost

preparation of the record for disclosure; and (d) of the estimated total cost

of

of the reproduction of the record and record including the cost of

repro

ducti

production or reproduction.(e) of any amount required to be paid before

on of

access is given to the

the

recor

information, the information officer shall inform the information seeker,

d of

within seven working days after receipt of the request, to provide the necessary

details. requested information seeker shall, within thirty days of receipt of the

(3) Where information holder's decision and within normal working hours, access the

further requested information at the information holder's offices. 14.\_\_(1) Where a

details are

request for access to information is granted, the information provided to the

required

to identify information seeker.(3) The head of an information holder shall certify the

or locate accuracy of the

the

information shall inform the third party in Form 3 in the Second Schedule hereto of the

information seeker. request made by the 15.\_\_(1)Where an information officer receives a request

that

for information required to give a response to the notice within ten working  
relates to

a third days from the date of receipt of the notice(2) A third party to whom notice is

party, the given under subregulation (1) shall be decision and disclose the information to

information the information seeker. is of public interest, the information officer shall

information officer inform the third party of that from disclosure, but the information officer

determine claims that the requested information is exempt copy of an information record

to the information seeker, the copy sought shall be disclosed in the requested

s that the

format.16.\_\_(1) Where a request for access to information includes giving a

informati

format where— information record may be disclosed in a format different from the requested(2) Notwithstanding subregulation (1) the copy of the requested

exist in the requested format; and(a) the information in the custody of the

on(3)

information holder does not information into another format is

unreasonable. (b) the information holder considers that the request to

convert the

Where the

(3) The following factors shall be taken into account in determining if the

third party

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conversion of information into the requested format is reasonable\_\_

conversion; (a) potential degradation of the information during the process of another format that is usable by the information seeker;(b) existence of the information within the information holder in

information seeker;format that is more accessible than the format requested

by the (c) possibility of converting the requested information into another the

information holder; (d) impact of the conversion of the information on the

operations of

format; personnel and resources to convert the information into the

requested (e) availability, within the information holder, of the required

technology and equipment to make the conversion; and(f) availability,

within the information holder, of the necessary into the requested

format.(g) cost, to the information holder, of converting the information

request for access to information to an information holder.17.\_\_(1) An information seeker

shall not pay any fee when submitting a Access fees transcription of the information, an

information holder may require the information seeker to pay reasonable standard charges

prescribed in the FirstSchedule hereto. (2) Where the request for information requires a

duplicate, translation or

or transcription, an information officer shall issue an official receipt to theinformation

seeker. (3) Where an information seeker has paid fees for duplication, translation

information seeker, the information holder may put reasonable conditions foruse of such

information.18.\_\_(1) Where an information holder discloses information to an Conditionsfor

use of disclosed information seeker shall, within five working days from the date of publication,

provide a(2) Where the information is to be used in a document, the information

interest to disclose information that has been requested, the information copy of the publication to the information holder. 19. \_\_ Where an information holder determines that it is in the public Public disclosure of

information to the public through a press release or any other means holder shall inform the information seeker of this decision and shall, in shall duly inform the information seeker, within five days of receipt of the addition to disclosing the information to the information seeker, disclose the determined as appropriate. information relates to information that is likely to be in the custody of another information holder, the information holder that receive the request 20. \_\_ (1) Where an information holder determines that a request for information Transfer of a request

in the Second Schedule. request, and transfer the request to the other information holder using Form 4

Information that cannot be found or does not exist

- 21. (1) Where a request for information relates to information that
  - (a) has been damaged;
  - (b) cannot be traced; or (c) does not exist,

fact that the information is not available, notify the information seeker,

in writing, that the information cannot be accessed. the information officer shall,

Refusal of access to information within five days of establishing the attempts made to trace the information. (2)

A notice issued under subregulation (1) shall include evidence of

officer shall inform the information seeker of this decision with reasons

in writing. 22. (1) Where access to information is not granted, an information

may appeal to the head of the information holder for a review of the decision in

accordance with regulation 23. (2) Where access to information is not granted,

the information seeker

## PART VII\_\_INTERNAL REVIEW

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mation officer of the information holder to which the request is transferred

shall inform the information seeker of the receipt of the transferand process

the request as if it had initially been submitted to that informationholder.(2)

Where a request is transferred pursuant to subregulation (1), the information holder,

time shall, with respect to processing the request by the information holder to

which the request is transferred, start running from the date Form 4 is received

by that information holder. (3) Where a request for information is transferred

to another information

Request for internal review holder in relation to a request for information, the aggrieved person may make. (1) Where a person is aggrieved by a decision of an information

of a decision of holder an information Second Schedule hereto, for a review of the decision. an application to the head of the information holder in Form 5 set out in the (2) For purposes of subregulation (1), an aggrieved person includes (a) an information seeker who (i) has not been granted access to requested information; (ii) has not received the requested information within the \_\_\_\_\_

for the delay; or prescribed period and has not been given a

reasonable explanation handled, and (iii) is not satisfied with the manner

in which his request is have been disclosed without his consent. (b) a third

party whose interests referred to in section 35 of the Act

information seeker and any relevant third party of the submission of appeal (3) An information officer shall inform, in writing, the aggrieved

documents to the head of the information holder, within five working days from the date

of receipt of the request for internal review made pursuant to subregulation (1). mechanism

for addressing complaints relating to handling of requests for information from aggrieved

parties.24.\_\_(1) Every information holder shall put in place an internal review for

internalProcedure review

internal review of a decision related to a request for information.(2) An aggrieved party

shall not be charged a fee for requesting an information request, to undertake the internal

review:the information officer and who was not involved in handling the initial (3) The

head of the information holder shall appoint an officer senior to

the review process. Provided that up to three senior officers may be appointed to undertake

opportunity to be heard during the review process. (4) The aggrieved party and the

information officer shall be given an

the information holder for endorsement after which, the head of the information holder shall inform the aggrieved party, in writing, of the decision of the review panel. (5) The outcome of the internal review shall be presented to the head of

from the date the information seeker presented the request for review. (6) The internal review process shall not take more than twenty-one days

PART VI\_\_EXTERNAL REVIEW OF DECISIONS OF INFORMATION HOLDERS

decision of the head of the information holder. Commission in Form 6 in the Second Schedule hereto, for a review of the process of an information holder, the person may make an application to the 25. Where any aggrieved person has exhausted the internal review

External review of a decision by information holder

opportunity to be heard during the review process. 26. information holder shall be given an Right to be heard

An aggrieved person and the

Act, the Commission shall have regard to information obtained through 27.\_\_(1) In making the determination referred to in section 44 (6) of the\_\_

Determination

(a) inquiries;

- (b) investigations;
- (c) examination of any record in question; and (d) representations made by the parties

determination, communicate its decision, in writing, to the aggrieved person and the information holder. (2) The Commission shall, within seven days of making its

- (3) The Commission shall give a copy of the determination to\_\_ (a) the aggrieved person;

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(b) any third party likely to be affected by the decision; and (c) the information holder.

entitled to access the requested information, the determination shall

outline steps to be taken to implement the decision within a specified time-

frame. (4) Where the Commission determines that the aggrieved person is

regulation (4) within the specified time-frame, and the head of the

information holder shall submit a report on the implementation of the

determination to the Commission. (5) An information holder shall implement

the determination in sub- the Commission.information holder has undertaken

in compliance with the determination of a report under subregulation (5),

inform the aggrieved person of the steps the (6) The Commission shall, within

thirty days from the date of receipt of

PART VII\_\_MISCELLANEOUS

Prevention of disclosure of information disclosure of information where meeting all the necessary conditions for disclosure in accordance with 28.\_\_(1)a) information is not disclosed despite an information seeker An information officer shall be deemed to have prevented

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section 5 of the Act;

reasonable excuse; and(b) information is not disclosed within the prescribed time without

reasonable excuse.(c) information is not provided in the agreed medium without

arbitrary denial of disclosure of information. (2) An information holder shall put in place mechanisms to prevent

Budget allocation information holder or a third party, that person commits an offence which is punishable under section 54 of the Act. which the information was requested and such use is detrimental to the 29. A person who uses information for other purpose other than that for

Budget allocation budget to promote access to information. 30. Every information holder shall

allocate resources within its annual guides Administrative holders on the implementation of the

Act and these Regulations. 31. The Minister may issue administrative guidelines to

information

FIRST SCHEDULE (regs. 9 and 10) FEES

The following fees shall apply for the processing of a request for information—

<i>Item</i>	<i>K</i>	<i>t</i>
(1) Reproduction of copy of the Commission Guide	10,000.	00
(2) Reproduction of copy of Information Manual . .	10,000.	00
(3) Standard reproduction fees . . . .	5,000.	00
(4) Reproduction over and above (3)		

((ab))for photocopying, per pagewhere the record or part thereof is provided in an. . .  
30. 00

- (i) alternate format, a fee not to exceed50. 00 (ii) per page of braille . . . . 00. 00
- (iii) per page of large print . . . . 100. 00
- (iv) per CD . . . . 1,000. 00

SECOND SCHEDULE

(reg. 11)

**14th January, 2021**

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*Signature of complainant* Made this 13th day of January 2021.

(FILE NO. IFN/ADMIN/01/04)

*Minister of Information* G. KAZAKO