

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

PUBLIC ACCESS TO INFORMATION AMENDMENT ACT 2014

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WHEREAS it is expedient to amend the Public Access to Information Act 2010:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Public Access to Information Act 2010 (the "principal Act"), may be cited as the Public Access to Information Amendment Act 2014.

Amends the principal Act

2 The principal Act is amended by deleting "28 days" where it appears and substituting "six weeks".

Amends section 4

3 Section 4(1)(b) of the principal Act is amended by—

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- (a) deleting the full-stop at the end of sub-paragraph “(v)” and substituting a semi-colon; and
- (b) inserting next after sub-paragraph “(v)” the following—
 - “(vi) the Attorney General’s Chambers;
 - “(vii) the Department of Internal Audit.”.

Amends section 6

4 Section 6 of the principal Act is amended by deleting subsection (1) and substituting the following—

“(1) A public authority shall provide information to the general public about information it holds, on an annual basis, by—

- (a) print media;
- (b) radio media;
- (c) television media; or
- (d) online web-page,

and on how to access information held by the public authority, to enable the public to have minimum need to resort to this Act for obtaining information held by a public authority.”.

Inserts section 26A

5 The principal Act is amended by inserting, next after section 26, the following—

“Information received in confidence— International tax agreements

26A (1) Subject to subsection (2), a record is an exempt record if it is—

- (a) a record of a request that has been submitted to the Minister of Finance for his consideration, being a record that was brought into existence in connection with an international tax agreement;
- (b) an official record of any deliberation or decision by the Minister of Finance in connection with an international tax agreement;
- (c) a record that is a draft or copy of, or an extract from, a record referred to in paragraph (a) or (b); or
- (d) a record, the disclosure of which would involve, or could reasonably be expected to involve, the disclosure of any deliberation or decision of the Minister of Finance, other than a record by which a decision of the Minister of Finance is officially published.

(2) Subsection (1) does not apply to a record that contains purely statistical, technical or scientific material unless the disclosure of the record would

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involve, or could reasonably be expected to involve, the disclosure of any deliberation or decision of the Minister of Finance.”.

Amends section 27

6 Section 27(1) of the principal Act is amended by inserting, next after paragraph (b), the following—

“(ba) drafting instructions, draft bills, draft statutory instruments or a record of drafting instructions, draft bills, or draft statutory instruments;”.

Amends section 35

7 Section 35 of the principal Act is amended—

- (a) in subsection (2) by deleting the words “A record” and substituting the words “Subject to subsection (3), a record”; and
- (b) by inserting, next after subsection (2), the following—

“(3) For the avoidance of doubt a record held by the Attorney General or the Director of Public Prosecutions, that is the subject of legal professional privilege, shall be an exempt record and shall not be subject to public disclosure of any kind.”.

Amends section 37

8 Section 37 of the principal Act is amended—

- (a) in subsection (1) by deleting the words “A record” and substituting the words “Subject to subsection (6), a record”; and
- (b) by inserting, next after subsection (5), the following—

“(6) For the avoidance of doubt a record held by the Attorney General or the Director of Public Prosecutions, that is the subject of legal professional privilege, shall be an exempt record and shall not be subject to public disclosure of any kind.”.

Amends section 43

9 Section 43(2) of the principal Act is amended by deleting “21 days” and substituting “six weeks”.

Repeal and replace section 64

10 Section 64 of the principal Act is repealed and replaced as follows—

“Offence to alter or destroy record

64 (1) Any person who, subject to subsection (2), alters, erases, destroys or conceals any record with the intention of preventing its disclosure under this Act

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commits an offence and is liable on summary conviction to a fine of \$10,000 or to imprisonment for six months or to both such fine and imprisonment.

(2) For the avoidance of doubt, no criminal or civil proceedings shall be brought against any person for anything done, reported or said in good faith in the exercise or purported exercise of a power or in the performance or purported performance of a duty or function of their employment with a public authority. ”.

Repeal and replace section 65

11 Section 65 of the principal Act is repealed and replaced as follows—

“General offence

65 (1) Any person who, subject to subsection (2), knowingly contravenes any provision of this Act (other than section 56 or 64) or regulations made under this Act is guilty of an offence and is liable on summary conviction to a fine of \$5,000 or to imprisonment for six months or to both such fine and imprisonment.

(2) For the avoidance of doubt, no criminal or civil proceedings shall be brought against any person for anything done, reported or said in good faith in the exercise or purported exercise of a power or in the performance or purported performance of a duty or function of their employment with a public authority.”.

Amends the Schedule to the Government Fees Regulations 1976

12 The Schedule to the Government Fees Regulations 1976 is amended by inserting after “Head 52” the following—

Head 52A		
Public Access to Information Act 2010		
	Service	Fee
1. Photocopy:		
	(a) Black and white copy (all sizes)	\$1.00 per page
	(b) Colour copy (all sizes)	\$2.00 per page
2. Photographs		
	(a) Black and white and colour (digital photographic print from digital file, scanned hardcopy or existing negative)	\$1.00
	(b) Black and white (photocopy or standard print-out)	\$1.00
	(c) Colour (photocopy or standard print-out)	\$2.00
3. Video Duplication		Actual Vendor Costs plus 25%

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Head 52A	
Public Access to Information Act 2010	
	administrative fee
4. Conversion of an analogue audio or video record (eg. tape or reel-to-reel) into digital MP3 or DivX file format	Actual Vendor Costs plus 25% administrative fee
5. Copy of a microfilm positive reel	\$75.00
6. Microfilm print-out black and white copy (all sizes)	\$1.00 per page
7. Conversion of a microfilm record into digital JPEG file format	Actual Vendor Costs plus 25% administrative fee
8. Print-out of a digital document or database report black and white copy (all sizes)	\$1.00 per page
9. Provision of a digital record (text or image) in standard PDF, JPEG or TIF file format:	
(a) by email	No charge
(b) actual cost of digital storage apparatus	No charge
10. Conversion of a paper record (text or image) into digital PDF, JPEG or TIF file format	Actual costs incurred by the authority, based on hourly rates of staff undertaking the conversion, plus the purchase costs of any digital storage apparatus
11. Digital text files converted to audio formats for visually impaired	Actual costs incurred by the Computer Services Department, based on hourly rates of staff undertaking the conversion, plus the purchase costs

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Head 52A		
Public Access to Information Act 2010		
		of any carrier medium
12. Searching by a public officer for any document or of any register or index (per hour or part of an hour occupied)	\$52.00	
13. Searching by a public officer or a member of the public for any document or of any register or index, where in the opinion of the public authority, the information to be obtained will be for the public benefit	Nil	".

Commencement

13 This Act shall come into operation on the same date on which the Public Access to Information Act 2010 comes into operation.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Public Access to Information Act 2010

Clause 1 is the citation.

Clause 2 amends the principal Act by expanding the period of days, for carrying out a function, from “28 days” to “six weeks”.

Clause 3 amends section 4(1)(b) of the principal Act thereby adding the Attorney General's Chambers and the Department of Internal Audit to the class to which the principal Act, except in the case of general administration, does not apply.

Clause 4 amends section 6(1) of the principal Act to clarify the means by which a public authority shall notify the public about what information it has in its possession and how to access information that it holds.

Clause 5 amends the principal Act by inserting section 26A to exempt international tax agreement records from public access, save for those records that are purely statistical, technical or of a scientific nature.

Clause 6 amends section 27(1) of the principal Act thereby exempting drafting instructions, draft bills, and draft statutory instruments (including a record of the same) from public access.

Clause 7 amends section 35 of the principal Act to clarify that records held by the Attorney General and the Director of Public Prosecutions, that are the subject of legal professional privilege, shall not be subject to public disclosure of any kind.

Clause 8 amends section 37 of the principal Act to clarify that records held by the Attorney General and the Director of Public Prosecutions, that are the subject of legal professional privilege, shall not be subject to public disclosure of any kind.

Clause 9 amends section 43 of the principal Act to allow the head of a public authority to provide a response , to an applicant, with regard to conducting an internal interview, to “six weeks” instead of “21 days”.

Clause 10 repeals and replaces section 64 of the principal Act to clarify that no criminal or civil proceedings shall be brought against any person for anything done, reported or said in good faith in the exercise or purported exercise of a power or in the performance or purported performance of a duty or function of their employment with a public authority.

Clause 11 repeals and replaces section 65 of the principal Act to clarify that no criminal or civil proceedings shall be brought against any person for anything done, reported or said in good faith in the exercise or purported exercise of a power or in the performance or purported performance of a duty or function of their employment with a public authority.

Clause 12 amends the Schedule to the Government Fee Regulations 1976.

Clause 13 is the commencement provision.