

COMMENTS OF DEPT OF PERSONNEL & TRAINING
ON FEEDBACK RECEIVED ON THE
PROPOSED AMENDMENTS TO RTI RULES

COMMENTS OF DOPT ON PUBLIC FEEDBACK

Annexure - I

S.No	Provision in the Draft Rules	Reaction of Public	Comments on DOPT
1.	Rule 3: Appointment of Secretary to the Commission: The Government shall appoint an officer not below the rank of Additional Secretary to the Government of India as Secretary to the Commission who shall be the Chief Executive Officer and Registrar General of the Commission.	It is an unnecessary provision which should be deleted	Section 13(6) of the Act provides that the Central Government shall provide the Commissioners with such officers and employees as may be necessary for the efficient performance of their functions. This provision also provides that the government may prescribe the terms and conditions of such officers and other employees. Thus the Act itself provides that government can make a provision of appointment of secretary to the commission and his status. Before the rules were drafted, the CIC was consulted. The CIC desired that provision as proposed should be included in the rules. The contention that it an unnecessary provision is not correct and request for deletion of this provision should not be accepted.
2.	Proviso to Rule 4: The request for information shall relate only to one subject matter and shall be limited to two hundred and fifty words, excluding the address of the Central Public Information Officer and the address of the applicant.	Such limit should not be imposed. Such a limit would harm the interest of poor and less educated people.	The Act gives right to the citizens to seek information which means any material in any form. It may be a document or sample etc. The applicant is not required to give any reason or justification for seeking information. At the same time, it is beyond the scope of the Act to seek clarifications or interpretations or solutions to any problems etc. Thus the applicant is required only to give the particulars of the documents or other material which he requires. The applicant is not required to give any reason for seeking information or to give any background of the information which he needs. Such a n application would not require more than 250 words. Apprehension that people who are not well educated may not be able to write an application within 250 words is

			without any basis inasmuch as long applications are made by the people who are well educated and who try to seek explanation etc. instead of seeking information as defined in the Act. The Act provides that if a person is not able to make a request, the public information officer would render him assistance to make request. This provision takes care of the people who are not well educated. Long applications contain statements and descriptions which are not relevant for seeking information. It only wastes the time of the public information officer and other officers who directly or indirectly deal with such applications. <u>There is a need to strike a balance</u> and to retain to focus on the specific issue on which information is being sought. Section 6(3) (II) provides that where an application is made to a public authority, subject matter of which is more closely connected with the functions of another public authority, the public authority receiving the application shall transfer the application to the concerned public authority. Thus there is a provision of subject matter in the Act itself. The singular form used in the Act suggests that the Act requires an application to have request on one subject only. An application seeking information in relation to more than one subject involves consultation with many officers. Many a time it becomes difficult even to ascertain as to who should deal with the application. It not only results in delay in reply to the application, it also creates frustration amongst the officers within a public authority. To enable the public authorities serve the people better, it is necessary
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			to put restriction of one subject one application. However following provisos may be added to proposed rule 4 to avoid the chances of misuse of the provision by the PIOs. "Provided further that if an application contains more than 250 words, first 250 words shall be taken into account and rest would be ignored. Provided further that if an application contains request for information on more than one subject, information relating to the first subject matter stated in the application shall be provided and rest would be ignored." Following explanations may also be incorporated below the rule: Explanations: "If an application seeks information on more than one issue, the information shall be treated to relate to one subject matter if request for second or subsequent issues relate directly or indirectly to the subject matter of the first information sought." There is a need to strike a balance for effective implementation of the Act. The proposed rule would strike such a balance.
3.	5(g) 'The actual amount spent by public authority on hiring a machine or any other equipment, if any, to supply information', shall be charged from the applicant.	Should be deleted.	The suggestion to delete the provision may be accepted. It is further suggested that as per suggestion of the National Advisory Council. The following proviso may be added to Rule 5 "provided that cost towards salary of employees of public authority and any other expenses shall not be charged from the applicant. "

4.	5(h) 'Postal charges, in excess of rupees ten, if any, involved in supply of information', shall be charged for the applicant.	Should be deleted.	It is suggested that the words "Rs.10/-" may be replaced by Rs.50/-
5.	Rule 7: Appeal to the first Appellate Authority: A person aggrieved by any order passed by the Central Public Information Officer or non-disposal of his application by the Central Public Information Officer within the prescribed time, may file an appeal to the first Appellate Authority in the format as given in the Appendix.	Should be deleted.	The Act does not provide for making rules in regard to appeal to the First Appellate Authority. We may accept the suggestion to delete this provision.
6.	Rule 8: Documents to accompany first appeal to the first Appellate Authority: Every appeal made to the first Appellate Authority shall be accompanied by the following documents, duly authenticated and verified: (i) Copy of the application submitted to the Central Public Information Officer; (ii) Copy of the reply, if any, of the Central Public Information Officer.	Should be deleted.	This provision is related to proposed Rule 7. If Rule 7 is deleted, it may also be deleted.

7.	Rule 10: Documents to accompany Appeal to Commission: Every Appeal made to the Commission shall be accompanied by the following documents, duly <u>authenticated and verified</u>: (i) Copy of the application submitted to the Central Public Information Officer; (ii) Copy of the reply, if any, of the Central Public Information Officer; (iii) Copy of the appeal made to the First Appellate Authority; (iv) Copy of the Order, if any, of the First Appellate Authority; (v) Copies of other documents relied upon by the Appellant and referred to in the Appeal; (vi) An index of the documents referred to in the Appeal.	The words 'authenticated and verified' should be substituted by the word, 'self attested'.	The suggestion appears to be reasonable and may be accepted.
8.	Rule 11(2): The Commission shall not admit an appeal unless it is satisfied that the appellant had availed of all the remedies available to him under the Act. Rule: 11 (3) For the purposes of sub-rule (2), a person shall be deemed to have availed of all the remedies available to him under the Act: (a) if he had filed an appeal before the First Appellate Authority and the First Appellate Authority or	The Commission may misuse the provision of the proposed sub-rule (2) and (3) to reject the appeals. In sub-rule (3) the time period of 45 days stated in clause (b) should be 30 days.	The Act requires that first appeal should be made to officer senior to public information officer in the public authority. The provision in the proposed rules is only a sort of reminder to the applicants that they should not directly make appeal to the Commission. They should first make an appeal to the first Appellate Authority. It is important to note that this provision does not take away the right of the applicant to make complaint to the Commission. The Act provides that the first Appellate Authority may take up to 45 days in disposing of the appeal. The time

	any other person competent to pass order on such appeal had made a final order on the appeal; or (b) where no final order has been made by the First Appellate Authority with regard to the appeal preferred, and a period of 45 days from the date on which such appeal was preferred has expired.		period of 45 days has been suggested keeping in view the provisions of the Act.
9.	Rule 16: Abatement of an Appeal / Complaint: The proceedings pending before the Commission shall abate on the death of the appellant.	Provision should be deleted, inasmuch as it may result into murder of the appellants.	'Right to information' is the right of the individual (citizen) who makes the application and, thereafter, appeal. His right vanishes with his death. The proposed provision in the draft Rules is in line with the provision of the Civil Procedure Code and may therefore be retained.
10.	-----	Provision of giving information in CD should also be incorporated.	This provision is already included in the Rules
11.	-----	Fee may be accepted through Revenue Stamps and money order also.	Suggestion for accepting fee by money order may be accepted but not by revenue stamps because it would not be possible for the public authority to receive fee through revenue stamps.
12.	-----	A time limit should be fixed for deciding the appeals by the Commission.	The Act does not make any provision in this regard. Nor does it enables the Government to make any provision in this regard. This request can, therefore, not be considered.

COMMENTS OF DOPT ON NAC WORKING GROUP SUGGESTIONS

Annexure - II

S. No.	Provision in the Draft Rules	Comments Given in the Power Point Presentation	Comments of DOPT
1.	Rule 3: Appointment of Secretary to the Commission: The Government shall appoint an officer not below the rank of Additional Secretary to the Government of India as Secretary to the Commission who shall be the Chief Executive Officer and Registrar General of the Commission.	The Commission should have freedom to select its staff and allocate work and responsibilities.	Section 13(6) of the Act provides that the Central Government shall provide the Commissioners with such officers and employees as may be necessary for the efficient performance of their functions. This provision also provides that the government may prescribe the terms and conditions of such officers and other employees. Thus the Act itself provides that government can make a provision of appointment of secretary to the commission and his status. Before the rules were drafted, the CIC was consulted. The CIC desired that provision as proposed should be included in the rules.
2.	Proviso to Rule 4: The request for information shall relate only to one subject matter and shall be limited to two hundred and fifty words, excluding the address of the Central Public Information Officer and the address of the applicant.	The provision regarding the limit of 250 words and one subject matter may be deleted. #	The Act gives right to the citizens to seek information which means any material in any form. It may be a document or sample etc. The applicant is not required to give any reason or justification for seeking information. At the same time, it is beyond the scope of the Act to seek clarifications or interpretations or solutions to any problems etc. Thus the applicant is required only to give the particulars of the documents or other material which he requires. The applicant is not required to give any reason for seeking information or

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				receiving the application shall transfer the application to the concerned public authority. Thus there is a provision of subject matter in the Act itself. The singular form used in the Act suggests that the Act requires an application to have request on one subject only. An application seeking information in relation to more than one subject involves consultation with many officers. Many a time it becomes difficult even to ascertain as to who should deal with the application. It not only results in delay in reply to the application, it also creates frustration amongst the officers within a public authority. To enable the public authorities serve the people better, it is necessary to put restriction of one subject one application. However following provisos may be added to proposed rule 4 to avoid the chances of misuse of the provision by the PIOs. "Provided further that if an application contains more than 250 words, first 250 words shall be taken into account and rest would be ignored. Provided further that if an application contains request for information on more than one subject, information relating to the first subject matter stated in the application shall be
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			provided and rest would be ignored." Following explanations may also be incorporated below the rule: Explanations: "If an application seeks information on more than one issue, the information shall be treated to relate to one subject matter if request for second or subsequent issues relate directly or indirectly to the subject matter of the first information sought." There is a need to strike a balance for effective implementation of the Act. The proposed rule would strike such a balance.
3.	5(c) 'The actual cost or price for samples or models', shall be charged from the applicant.	Rule 5(c) may be replaced by the following: Ordinarily three types of samples can be required: (a) Where the sample is a part of the whole, but is easily extractable, eg. A sample of milk, or petrol, or wheat. In such a case the charge will be the proportional cost of the quantity of sample taken, either at prevailing market rates, or at the rate paid for by the public authority, whichever is less. (b) Where it is an independent item which is one or many such (like a shirt, or a blanket, or a shovel). In such a case the charge will be the cost of the item, either at prevailing market rates, or at the rate paid for by the public authority, whichever is less.	The provision of the draft rules is precise and there appears to be no need to change it. There is no need of making an elaborate provision as suggested by the NAC in the Rules.

		(c) Where it is a part of a structure or a solid whole from where it has to be extracted. In such case it would be the actual cost of extraction using existing equipment. Where sample cannot be extracted with existing equipment without causing irreparable damage, then actual cost of hiring special equipment can be charged.	
4.	5(g) 'The actual amount spent by public authority on hiring a machine or any other equipment, if any, to supply information', shall be charged from the applicant.	The provision against 5(g) has been recommended to be deleted and addition of the following: The cost of salaries of Staff or any other expense not specified above cannot be charged to the applicant	The suggestion to delete the provision may be accepted. It is further suggested that as per suggestion of the National Advisory Council. The following proviso may be added to Rule 5 "provided that cost towards salary of employees of public authority and any other expenses shall not be charged from the applicant. "
5.	5(h) 'Postal charges, in excess of rupees ten, if any, involved in supply of information', shall be charged for the applicant.	5(h) may be replaced by the following: (a) Information must be sent to the applicant in a matter such that a dated proof of receipt is available with the Public Authority. Where, due to excess weight, postage is over Rs.50/-, the additional amount can be charged to the applicant provided that it is calculated and demanded with the additional fee date. (b) The applicant has the right to personally, or through an authorized representative, collect, or have collected, the information without any charge. (c) Provided that no fee shall be charged under this rule from the persons who are below poverty line as may be determined	It is suggested that the words "Rs.10/-" may be replaced by "Rs.50/-". However, addition of the provisions as suggested by the NAC is not required. It may be pointed out that while clause (b) suggested by NAC goes without saying, clause (C) is already provided in the Act.

		by respective State Governments, or where it has not been provided in the time frame specified in the Act.	
6.	Rules 6 'Fee under these rules shall be paid by way of: (a) cash, to the public authority or to the Central Assistant Public Information Officer of the public authority, as the case may be, against proper receipt; or (b) demand draft or bankers cheque or Indian Postal Order payable to the Accounts Officer of the public authority; or (c) electronic means to the Accounts Officer of the public authority, if facility for receiving fee through electronic means is available with the public authority: Provided that a public authority may accept fee by any other mode of Payment'.	A clause may be added to Rule 6 as follow: (d) Through postage stamps/instruments or money paid receipts, with the total monetary equivalent or the quantum of fees required	Such a provision appears to be confusing and impractical.
7.	Rule 7: Appeal to the first Appellate Authority: A person aggrieved by any order passed by the Central Public Information Officer or non-disposal of his application by	The word 'format' used in rule 7 may be deleted and following proviso may be added to that: Provide that no appeal would be rejected if it was not in the given format but contained all the information required' (information to be contained in an appeal has been listed in last	The Act does not provide for making rules in regard to appeal to the First Appellate Authority. We may, therefore, delete the provision.

	the Central Public Information Officer within the prescribed time, may file an appeal to the first Appellate Authority in the format as given in the Appendix.	slide)	
8.	Rule 8: Documents to accompany first appeal to the first Appellate Authority: Every appeal made to the first Appellate Authority shall be accompanied by the following documents, duly authenticated and verified: (i) Copy of the application submitted to the Central Public Information Officer; (ii) Copy of the reply, if any, of the Central Public Information Officer.	The words 'duly authenticated' in rule 8 may be replaced by 'self attested and self verified' and following proviso may be added: Provided that no appeal would be rejected merely because the documents were not verified or attested. Where there is a doubt or dispute, the appellant would be asked to authenticate and/or attest the documents, as required.	As suggested in Annexure-I, Rule 8 may be deleted.
9.	Rule 10: Documents to accompany Appeal to Commission: Every Appeal made to the Commission shall be accompanied by the following documents, duly <u>authenticated and verified</u>: (vi) An index of the documents referred to in the	In Rule 10(VI) which reads 'an index of the document referred to in the appeal' may be deleted and following proviso may be added: Provided that no appeal shall be rejected solely on the ground that any of the above mentioned documents are missing. It would be the responsibility of the commission to designate an officer for the purpose, who shall inform the appellant of the missing documents and ensure that they are received prior to the hearing being fixed.	The draft rules do not provide that an appeal would be rejected if any of the documents are missing. If some documents which are required to be annexed with the appeal, are not annexed, the commission informs the appellant to make the deficiency good. Making such a provision facilitates an appellant to draft the appeal in accordance with the requirement of the Commission. The suggestion to delete the

	Appeal.		provision of giving index of documents does not appear to be practical. The Rules should facilitate the functioning of the Commission. There is a need to strike the balance between the interests of appellate and the appellate authority. The suggestion appears to disturb such a balance.
10.	Rule 11 Admission of appeals: (1) On receipt of an appeal, if the Commission is satisfied that it is a fit case for consideration, it may admit such appeal; but where the Commission is not so satisfied, it may, after giving an opportunity to the appellant of being heard and after recording its reasons, reject the appeal. (2) The Commission shall not admit an appeal unless it is satisfied that the appellant had availed of all the remedies available to him under the Act. (3) For the purposes of sub-rule (2), a person shall be deemed to have availed of all the remedies available to him under the Act: (a) if he had filed an appeal	Sub-rules (2) and (3) of Rule 11 may be deleted because it is repeat of Section 19 of the Act.	It is not the repeat of Section 19 of the Act. The provision would facilitate an appellant to decide when to make appeal so that his appeal is not dismissed in limine. The Act requires that first appeal should be made to officer senior to public information officer in the public authority. The provision in the proposed rules is only a sort of reminder to the applicants that they should not directly make appeal to the Commission. They should first make an appeal to the first Appellate Authority. It is important to note that this provision does not take away the right of the applicant to make complaint to the Commission. The Act provides that the first Appellate Authority may take up to 45 days in disposing of the appeal. The time period of 45 days has been suggested keeping in view the provisions of the Act.

	before the First Appellate Authority and the First Appellate Authority or any other person competent to pass order on such appeal had made a final order on the appeal; or (b) where no final order has been made by the First Appellate Authority with regard to the appeal preferred, and a period of 45 days from the date on which such appeal was preferred as expired.		
11.	Rule 12 Procedure for deciding appeals: The Commission, while deciding an appeal may, (i) receive oral or written evidence on oath or on affidavit from concerned or interested person; (ii) peruse or inspect documents; public records or copies thereof; (iii) inquire through authorized officer further details or facts; (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or the First Appellate Authority, or such person	Clause (vi) of Rule 12 may be deleted as it is covered by 12(i).	There appears to be no need to delete the provision. Clause (i) and (vi) are not the same. It may be noted that this provision is the same as given in the existing rules which have withstood the test of time.

	against whose action the appeal is made, as the case may be; (v) hear third party; and (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, First Appellate Authority and such person against whom the appeal lies or the third party		
12.	Rule 13. Amendment or withdrawal of an Appeal: The Commission may allow a prayer for any amendment or withdrawal of an Appeal during the course of hearing, if such a prayer is made by the Appellant on an application made in writing. Provided that such request shall not be entertained by the Commission after the matter has been finally heard or a decision or order has been pronounced by the Commission.	Rule 13 may be deleted because provision of withdrawal may become a source of harassment and blackmail	Whole of the provision need not be deleted. Keeping in view the concern of the NAC, the words, 'or withdrawal' may be deleted, wherever these words are appearing in this rule.
13.	Rules 14. Personal presence of the appellant before the Commission (2) The appellant may, at his discretion, be present in person or through his duly	Words, 'if permitted by the Commission' may be deleted for Rules 14(2) and following may be added to the Rule 14 as follows: (3) The appellant may opt not to be present or represented, an no adverse implication would be drawn from the absence of the	Deletion of the words, "if permitted by the Commission" may be accepted. However, there is no need to add 14(3) as it is already covered by 14(2).

	authorized representative or, if permitted by the commission, through video conferencing, at the time of hearing of the appeal by the Commission	appellant and/or representative.	
14.	Rule 15. Presentation by the Public Authority: The public authority may authorize any representative or any of its officers to present its case.	Following proviso may be added to Rule 15: Provided that in the case of penalty proceedings, the PIO and/or deemed PIO will be personally liable for the cost of legal representation, if any engaged.	The suggestion is not practical and may not be accepted. It is for the public authority to decide in the light of the facts of the case as to who should bear the cost.
15.	Rule 16. Abatement of an Appeal / Complaint: The proceedings pending before the Commission shall abate on the death of the appellant	Rule 16 may be deleted because this proviso may encourage, inasmuch as it may result into murder of the appellants.	'Right to information' is the right of the individual (citizen) who makes the application and, thereafter, appeal. His right vanishes with ^{his} the death of the individual. The proposed provision in the draft Rules is in line with the provision of the Civil Procedure Code, ^{and may therefore be} It would not be in the rightness of things to delete such a provision. retain
16.	Rule 18. Order of the Commission: An order of the Commission shall be in writing and issued under the seal of the Commission duly authenticated by the Registrar or any other officer authorized by the Commission for this purpose.	In Rule 18 the words 'shall be pronounced in open court' may be added	The Commission is not a ^{court} code . However, the commission is declaring all of the decisions in public. There is no need of incorporating the words as suggested by NAC in the rule.
17.	-----	The following additional provisions may be made in the Rules: (a) Second appeals and complaints before the Information Commission must be disposed	Incorporation of such provisions in the Rules is beyond the rule making power of the Government. If such provisions are to be corporate in the rules, amendments would

		of as speedily as possible and in no case should the final order be later than 90 days from the filing of an appeal or a complaint. (b) Each Public Authority should designate one or more Public Information Officers with the specific responsibility or ensuring compliance with Section 4(1)(b), (c) and (d) of the RTI Act. (c) Applicants can file complaints with the Information Commissions, in accordance with Section 18(1), without having to file First Appeals, or while a First or Second Appeal is pending with the First Appellate Authority/Information Commission respectively. The Commission shall take cognizance of all such complaints and deal with them independently of any appeal proceeding. (d) There will be no time limit to the filing of complaints and a complaint can file a complaint before the Commission at any time after the cause of the complaint. (e) Rules may be framed for outlining the procedures for short-listing potential candidates for appointment as Information Commissioners. This process must be participatory and transparent. (f) Rules for the functioning of Information Commissions including those under Section 12(4) to be formulated after a consultative process. (g) Rules need to be formulated to ensure compliance of orders of Information Commissions.	have to be made in the RTI Act itself. It may, however, be stated in regard to suggestion(d) that the Act does not given any time limited for making complaint.
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		(h) Ensure through appropriate rules that penalties awarded are recorded in the service record (i) Procedure for giving information within 48 hours (in life and liberty cases) must be defined. (j) Define procedures for access to information under Section 24 – allegations of corruption and Human Rights Violations from organizations exempted under schedule II. (k) Information under Section 4(4) – which was supposed to be proactively provided – to be provided free of charge if not made available proactively. (l) Rules should be formulated to ensure that all RTI applications and responses are made public.	
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