

Freedom of Information (General) Regulations, 2021

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Title.

PART II

PUBLICATION OF INFORMATION AND INFORMATION OFFICERS

2. Publication of information by public entities, public commercial entities or statutory offices.
3. Public entity to designate information officers.
4. Functions of information officer.
5. Delegation of functions.
6. Duty to keep register of applications.

PART III

RIGHT OF ACCESS

7. Request for access to information.
8. Procedure on receipt of a request for access to information.
9. Transfer of request.
10. Personal information and third-party rights.
11. Notification of decision to grant access and right of appeal.
12. Access to records during office hours.
13. Fees.
14. Exemption of fees.

PART IV

APPEALS

15. Forms of appeals Minister may give centre directions on matters of policy.
16. Public Information Appeals Committee.

Section

17. Role of the Secretary of the Commission on receipt of appeals.
18. Determination of appeal without a formal hearing.
19. Appeal hearing.
20. Notification to parties and other persons of findings of appeal hearing.
21. Submission of record hearing to Commission and reports by the Commission.

PART IV

MISCELLANEOUS

22. Offences and penalties.

FIRST SCHEDULE: Request form.

SECOND SCHEDULE: Form of acknowledgement by Information Officer.

THIRD SCHEDULE: Fees.

FOURTH SCHEDULE: Appeal Form.

FIFTH SCHEDULE: Form of Subpoena.

IT is hereby notified that the Zimbabwe Media Commission, in terms of section 40 of the Freedom of Information Act [*Chapter 10:33*], has made the following regulations in consultation with the Minister:—

Title

1. These regulations may be cited as the Freedom of Information (General) Regulations, 2021.

PART II

PUBLICATION OF INFORMATION AND INFORMATION OFFICERS

Publication of information by public entities, public commercial entities or statutory offices

2. (1) A public entity, public commercial entity or statutory office shall cause to be published within six months of—

- (a) the commencement day of these regulations; or
- (b) the establishment of the public entity, public commercial entity or statutory office;

an initial statement of its organisation, containing—

- (i) a description of its functions; and
- (ii) a list of its departments and agencies, if any; and
- (iii) subjects handled by each department and agency; and
- (iv) the locations of departments and agencies;
- (v) opening hours of the offices of the authority and its departments and agencies;
- (vi) the title and business address of the principal officer;
- (vii) a description of the subjects on which the entity holds records and the categories of records held on each subject;
- (viii) a description of the services available to members of the public from the entity and how to gain access to those services;
- (ix) such other information as may be prescribed.

(2) A public entity, public commercial entity or statutory body must update and publish the information referred to in subsection (1) whenever change in circumstances will have occurred, within six months of such change.

Public entity to designate information officers

3. Every public entity, public commercial entity or holder of a statutory office, except those for whom the Act does not apply, shall designate an information officer for the entity and ensure that members of the public have easy access to relevant information concerning the Information Officer, including his or her name, function and contact details.

Functions of information Officer

4. An information officer shall—

- (a) ensure persons who are applying for access to personal information prove their identity;
- (b) conduct interviews with applicants to ensure that the appropriate records are located;
- (c) ensure that applicants are fully informed of the status of their applications;
- (d) inform applicants when it is known that a record is already published and if requested provide information as to where the information can be accessed or provide access to that information;
- (e) monitor the inspection of records;
- (f) make a record of all applications for access as required by these regulations and maintain a disclosure log for the entity of all applications granted;
- (g) establish an information disclosure policy for the entity;
- (h) coordinate throughout the entity the information required to be published under section 5 of the Act;
- (i) transfer applications to other entities after consultation with the appropriate information officer on the functions and duties of the public entity and the existence or otherwise of the records required by the applicant in that public entity;
- (j) assist persons who have limited ability to read or write or with any mental or physical disability;
- (k) authenticate copies of records;
- (l) examine records to which access has been applied for to determine whether—
 - (i) the record is exempt in its entirety; or
 - (ii) the record contains exempt matter; or
 - (iii) access should be granted; or
 - (iv) the grant of access should be deferred under section 11 of the Act; or
 - (v) keep up to date their knowledge of the Act, the laws relevant to the administration of their public entity, the Code of Practice on Records

Management, and the laws and practices affecting the management of records and information.

Delegation of functions

5. An information officer may delegate such of his or her functions as he or she thinks necessary or expedient but shall remain accountable for the discharge of those functions.

Duty to keep register of applications

6. An information officer shall establish a monitoring and tracking computer system where a register of applications in electronic form shall be kept which shall include but be not limited to—

- (a) an application number; and
- (b) the name of the applicant; and
- (c) the date of the application (which shall be the date of original receipt, where it was at that time, a complete and valid request under the Act or these regulations) or a subsequent date (where the application had to be resubmitted so as to be complete and valid); and
- (d) a summary of the applicant's request; and
- (e) the date the response was sent to the applicant; and
- (f) a summary of information provided, where information was provided; and
- (g) where the application was refused, the specific clause relied upon with an explanation of reasons; and
- (h) whether an appeal was filed and the outcome of that appeal.

PART III

RIGHT OF ACCESS

Request for access to information

7. A request for access to information in terms of section 7 of the Act shall be in the form set out in the First Schedule.

Procedure on receipt of a request for access to information

8. (1) An officer from the entity to whom a request is given or transmitted shall accept it and pass it on to the information officer

as soon as practicable but not later than twenty-four hours from the date of receiving the request.

(2) Upon receipt of the request the information officer shall dispatch to the applicant a letter of acknowledgement in the form set out in the Second Schedule.

(3) The information officer shall make a determination to grant or refuse the request in accordance with the provisions of section 8 of the Act.

(4) In responding to a request for access to information, an information officer shall clearly state any of the following issues—

- (a) whether request has been granted or refused;
- (b) if granted, if any fee is payable for the reproduction, translation or transcription of the record;
- (c) if refused, the reasons for refusal which must conform to any of the grounds for refusal specified in Part IV of the Act;
- (d) any request for extension of time in accordance with the provisions of section 9 of the Act;
- (e) any deferment of access;
- (f) whether if, after a reasonable search has been conducted, the information cannot be found or does not exist.

(5) An information officer shall make reasonable efforts to locate a record that is the subject of an application for access.

(6) Where an information officer has been unable to locate the record referred to in subsection (5), he or she shall make a record of the efforts he or she made.

Transfer of request

9. (1) Upon scrutinising a request, an information officer may make a determination that a request should be referred to another entity.

(2) Where a determination to transfer a request to another entity is made, the information officer must immediately transfer the request and dispatch correspondence to the applicant indicating that the entity has transferred the request to the appropriate entity, naming the entity.

Personal Information and third-party rights

10. (1) Where an information officer intends to give access to a record which he or she believes contains personal information of a third party, he or she shall, within seven days of receipt of the request, send the third party written notice of the request for access.

(2) If the third party does not respond within the time specified in subsection 10(4)(d) or the information officer is not satisfied that the communication has reached the third party, he or she shall make such further attempts as are practicable to contact the third party by other feasible means of communication such as telephone, fax or e-mail until he or she is so satisfied.

(3) If no access is intended to be given to a record that contains personal information of a third party, no notice shall be given to a third party.

(4) The notice shall—

- (a) state that a request has been made by an applicant for access to a record containing personal information about the third party; and
- (b) describe the contents of the request and record concerned; and
- (c) describe the protection granted in terms of the Act with respect to the information concerned; and
- (d) state that, within seven days from the date of notice (and the notice shall be dispatched on the date of the notice), the third party may, in writing, consent to the disclosure or may make written representations to the information officer explaining why the information should not be disclosed; and
- (e) state that a decision will be made within fourteen calendar days from the expiry of the seven days whether or not to give the applicant access to the record or from the date a response is received from the third party, if earlier.

Notification of decision to grant access and right of appeal

11. (1) On reaching a decision to grant access or partial access to personal information the information officer shall as soon as possible

send separate written notifications of that decision to the applicant and to the third party.

- (2) A notice under paragraph (1) shall state—
- (a) the decision taken by the entity in relation to the request;
 - (b) the options available to the applicant under section 35 of the Act; and
 - (c) if the third party has not consented in writing to the disclosure, that—
 - (i) the third party has a right of appeal under subsection (3); and
 - (ii) access to the record will be given unless the third party appeals the decision to the Commission under paragraph (3); and
 - (iii) if the third party intends to appeal the decision of the Commission, that the third party must notify the public entity of the third party's intention to do so; and
 - (iv) the record will be withheld from the applicant until the third party's time for appeal to the Commission has expired; and
 - (v) if the third party appeals to the Commission, the decision of the Commission will replace the public entity's decision.

(3) If the third party is dissatisfied with the decision, or any part of the decision, under subsection (1), the third party may appeal to the Commission within thirty days from the date of receipt of the notice of the decision.

(4) If the third party appeals within the period specified in subsection (3), the public entity shall not provide access to the information requested and shall await the decision of the Commission.

(5) If there is no appeal within the period specified in subsection (3), the information may be released to the applicant on the first day following that period.

Access to records during office hours

12. The preparation of records by a public entity for the purpose of granting access and the inspection, viewing or listening to or

collection of copies of records shall be done during the working hours of the entity unless otherwise authorised by the responsible person of the entity.

Fees

13. (1) The fees in Third Schedule shall apply.

(2) Where access is granted to a record and the record is to be inspected on the premises of the entity no fee shall be payable.

(3) Before access is given to a record the Information Officer shall give the applicant an estimate of the fees, and the fees shall be paid before access is granted.

(4) Payment may be made by such method as the public entity may specify and for this purpose the entity may specify payment by cash, cheque, money order or electronic bank card.

(5) The request for access shall be deemed to have been withdrawn where the applicant fails within twenty-one days of receipt of the notification of fees—

- (a) to respond; or
- (b) to set an appointment for inspection; or
- (c) to present himself at the public authority to receive copies of the record.

Exemption of fees

14. (1) No fee shall be charged—

- (a) to persons or class of persons who have been exempted by the Minister from paying fees;
- (b) for a particular class of information or records which the Minister has, by notice in the *Gazette*, determined that no fee shall apply.

PART IV

APPEALS

Form of appeal Minister may give centre directions on matters of policy

15. An appeal to the Commission against any decision of an information officer in terms of section 35 of the Act shall be in the form set out in the Fourth Schedule.

Public Information Appeals Committee

16. (1) For the expeditious determination of matters on appeal, the Commission may establish an appeals committee known as the Public Information Appeals Committee to hear appeals against any decision of an information officer:

Provided that the establishment of such a committee shall not prevent the Commission from itself hearing a matter that is brought to the Commission on appeal.

(2) Where the Commission establishes an appeals committee, the committee shall consist of at least three and not more than five members, one of whom must be a Commissioner who will assume the role of chairperson of the committee.

(3) The other members of the committee shall be drawn from the Secretariat or from a list of adjudicators approved by the Commission for their experience and competence in adjudicating disputes.

(4) Where the committee consists of two or more Commissioners, the Commission or the Chairperson of the Commission, as the case may be, shall assign to one of the selected Commissioners the role of chairing the appeals committee.

Role of the Secretary of the Commission on receipt of appeals

17. (1) On receipt of an appeal the Secretary of the Commission shall immediately—

- (a) record details of the appeal in an appeals register established for that purpose and assign an individual case number to the record;
- (b) request the information officer whose decision is appealed against to submit to the Commission, within the prescribed time, the application for access to information together with the officer's reasons for refusing access;
- (c) notify any third parties of the appeal, if the appeal affects any third party, and request them to make written representations within the prescribed time as to why the request for access should not be granted;

- (d) prepare a record of the matter and transmit the record to the Commission or the Appeals Committee established by the Commission.

(2) The Secretary of the Commission shall, generally act in accordance with the Commission's or the Appeals Committee's directions and develop all internal preparatory work relevant for the sound and efficient management of appeals, including the organisation of translations when required by the language of the proceedings.

Determination of appeal without a formal hearing

18. (1) The Commission or the Appeals Committee, with the consent of parties, as the case may be, may if it finds an appeal to be well-founded, and after considering the reasons submitted by the information officer for the decision appealed against and the written representations made by the applicant or any third party, without convening a hearing on the matter, grant the relief sought by the applicant or such other relief as it thinks fit in the circumstances.

(2) For all appeals made in circumstances referred to in section 8(10) of the Act, the Commission shall dispense with the need to conduct a formal hearing and the procedure set out in subsection (1) shall apply.

Appeal hearing

19. (1) Where the Commission or Appeals Committee has resolved to conduct a formal hearing the hearing shall be conducted in accordance with procedures fixed by the Commission or by the committee Chairperson:

Provided that—

- (a) the proceedings shall be inquisitorial in nature, and the persons presiding over the hearing shall be entitled to question anyone appearing before the hearing;
- (b) the proceedings shall be conducted in English, unless the committee chairperson directs otherwise;
- (c) if the applicant or respondent, or anyone who is giving evidence or information to the hearing, has difficulty in understanding the language in which the proceedings are being conducted, he or she shall be provided with an interpreter;

- (d) the applicant and the respondent shall be entitled, through the committee chairperson or directly if the committee chairperson so permits, to put questions to anyone appearing before the hearing;
- (e) the rules of natural justice shall be observed, and in particular the applicant and respondent shall be given a reasonable opportunity to respond to allegations made against them;
- (f) the applicant and the respondent and anyone else appearing before the hearing shall be entitled to be represented, at their own expense, by a legal practitioner or by any other suitable person of their own choice, who shall be given reasonable access to all documents held or received by the Commission in relation to the issues to be decided at the hearing.

(2) At the commencement of the hearing, the committee chairperson shall explain the purpose of the hearing and the procedure to be followed, and shall outline the grounds of appeal and the issues to be decided at the hearing.

(3) The committee chairperson may require persons appearing before the hearing to give their evidence on oath, and for that purpose may administer the oath to them.

(4) The Commission or the Appeals Committee, as the case may be, may, on its own motion or at the request of a party to an appeal, subpoena any person it believes may be able to give information relevant to a matter before it:

Provided that such subpoenas are issued at least seven days before the hearing.

(5) The subpoena shall be issued in the form set out in the Fifth Schedule.

(6) The committee chairperson may adjourn the hearing for the purpose of considering the evidence received at the hearing.

(7) The committee chairperson shall keep, or cause to be kept, a proper record of the proceedings of the hearing.

(8) Before the hearing is closed after all the evidence has been received, the applicant and the respondent shall be given a

reasonable opportunity to address the persons presiding over the hearing.

(9) After evidence has been received the persons presiding over the hearing shall consider the evidence and then, either orally or in writing—

- (a) summarise the evidence and information; and
- (b) state their findings on the complaint, giving full reasons for the findings; and
- (c) confirm, vary or rescind the decision of the information officer; and
- (d) state the applicant or the third party's right to appeal to the High Court in terms of section 38(5)(b) of the Act:

Provided that the committee chairperson shall ensure that where the summary and statement are made orally, they are reduced to writing.

Notification to parties and other persons of findings of appeal hearing

20. After the findings of an appeal hearing have been stated in terms of section 20(9)(b), the Secretary of the Commission shall send a copy of the statement and decision of the Commission or the appeals committee, as the case may be, to the Applicant and information officer and to any other person interested in the matter.

Submission of record of hearing to Commission and reports by the Commission

21. (1) Where an appeal was heard by the appeals committee, the chairperson of the Appeals Committee shall lay before the Commission the record of the hearing.

(2) The Commission shall consider the documents laid before it in terms of subsection (1) and issue a report summarising the evidence and confirming the Commission's findings and decision on the matter:

Provided that instead of restating the summary and findings of the persons who presided at the hearing, the Commission may refer to them by reference.

(3) The Secretary to the Commission shall ensure that the report is appropriately filed for record purposes.

PART V

MISCELLANEOUS

Offences and penalties

22. (1) Any person who unlawfully—

- (a) alters or defaces;
- (b) blocks or erases;
- (c) destroys; or
- (d) conceals;

information with the intention of preventing its disclosure except as is lawfully permitted shall be guilty of an offence and liable to a fine not exceeding level 6 or imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(2) Any person who after being called upon to appear before the Commission or the Appeals Committee, as the case may be, in terms of section 19(4)—

- (a) fails to attend at the time without excuse; or
- (b) fails to remain in attendance until excused by the Commission or the Appeals Committee, as the case may be; or
- (c) refuses to be sworn or affirmed as a witness without sufficient cause; or
- (d) fails to answer fully and satisfactorily, to the best of his or her knowledge and belief, any question lawfully put to him or her; or
- (e) makes any false statement knowing it to be false or not reasonably believing it to be true;

shall be guilty of an offence and liable to a fine not exceeding level 6 or imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(3) Any person who in any hearing wilfully insults any member of the Commission or the Appeals Committee or wilfully interrupts the proceedings or otherwise misbehaves shall be guilty of an offence and liable to a fine not exceeding level 6 or imprisonment for a period not exceeding one year or to both such a fine and such imprisonment.

FIRST SCHEDULE (Section 8)

REQUEST FORM

ZIMBABWE MEDIA COMMISSION

REQUEST FOR ACCESS TO INFORMATION

1. PARTICULARS OF PERSON REQUESTING ACCESS TO THE RECORD

Surname	Forename(s)	Title *Mr/Mrs/ Miss/Ms/Dr
I.D. No.	Postal Address	
Tel No.	Fax No.	Email
Capacity in which request is made, when made on behalf of another person:		
Particulars of person on whose behalf request is made (<i>complete ONLY if a request for information is made on behalf of another person.</i>)		
Surname	Forename(s)	I.D. No.

**Delete inapplicable*

2. INFORMATION REQUESTED

<p>To: The Information Officer For: [State the name of the Entity where information is requested]</p>
<p>Details of Information Requested Notes:</p> <p>(a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located. If possible, state subject matter, date range, type of records etc. Be as specific as possible.</p> <p>(b) If the provided space is inadequate, please continue on a separate sheet and attach it to this form. You must sign all the additional sheets.</p>

Freedom of Information (General) Regulations, 2021

<p>METHOD OF ACCESS PREFERRED <i>(Please choose one)</i></p> <p>If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.</p> <p>Disability:</p> <p>Form in which record is required:</p>					
(1) If the record is in written or printed form:					
Receive paper copies of the documents		Receive electronic copies of the documents		Examine the documents in government offices	
(2) If record consists of visual images—(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):					
View the images		Copy the images		Transcription of the images	

(3) If record consists of recorded words or information which can be reproduced in sound:					
Listen to the soundtrack		Transcription of soundtrack			
(4) If record is held on computer or in an electronic or machine-readable form:					
Printed copy of record		Printed copy of information derived from the record		Copy in computer readable form (compact disc or flash drive)	

Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.

In which language would you prefer the record?

3. FEES

<p>(a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a fee has been paid.</p> <p>(b) You will be notified of the amount required to be paid as the access fee.</p> <p>(c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.</p> <p>(d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.</p> <p>Reason for exemption from payment of fees:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
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4. NOTICE OF DECISION REGARDING REQUEST FOR ACCESS

You will be notified in writing whether your request has been approved / denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

Freedom of Information (General) Regulations, 2021

How would you prefer to be informed of the decision regarding your request for access to the record?

.....
.....

Signed atthisday of

.....
Signature of Applicant/
Person on whose behalf request is made

ADDITIONAL NOTES:

- (a) Compliance with your request for access in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) You may be asked to provide additional information to help the information officer meet your request. The entity may not be able to process your request if you do not provide sufficient information.

FOR OFFICE USE

Reference number:

Request received by
(State rank, name and surname of information officer)

on (date)

at(place).

Access fee (if any): \$

Deposit (if any): \$

.....
SIGNATURE OF INFORMATION OFFICER

SECOND SCHEDULE (*Section 9(2)*)

FORM OF ACKNOWLEDGEMENT BY INFORMATION OFFICER

Dear [Name]

Thank you for your application dated [insert date of application], received by us on [insert date of receipt].

Your request is being dealt with under the terms of the Freedom of Information Act [*Chapter 10:33*]. We will undertake the necessary research in order to respond to your request within the prescribed period of twenty-one days, which count excludes weekends and public holidays.

If you have any queries about this letter, please contact the undersigned. Remember to quote your reference number above in any future correspondence.

Yours faithfully,

Information Officer

[Name, address, e-mail address and telephone number]

THIRD SCHEDULE (*Section 14*)

FEES

1. There shall be no fees payable for an application for access to information, fees are only payable for reproduction, photocopying, transcription and translation of copies as charged by a public entity, unless were exempted by section 17(5) of the Act.

2. The fee payable on lodging an appeal with the Zimbabwe Media Commission against the refusal of a request by an entity for access to information shall be ZWL\$5 000,00.

FOURTH SCHEDULE (*Section 16*)

APPEAL FORM

ZIMBABWE MEDIA COMMISSION

APPEAL AGAINST DECISION OF INFORMATION OFFICER

1. Applicant's Details

Name:

Surname:.....

Address:

Telephone: Fax:

E-mail:

Freedom of Information (General) Regulations, 2021

2. Respondent's Details

Name of Entity where Request for access to information was made:.....

Designation and address of officer passing the decision appealed against:
.....

Date of decision appealed against:

3. Grounds of Appeal and relief sought, if any (*Provide details*).

.....
.....
.....

I, the Applicant do hereby declare that what is stated above is true to the best of my information and belief.

Date.....Signature

**Notes: The form shall be filed in triplicate and shall be accompanied by a copy of the decision appealed against*

FIFTH SCHEDULE (*Section 20(5)*)

FORM OF SUBPOENA

ZIMBABWE MEDIA COMMISSION

SUBPOENA

To:

(Name of person subpoenaed)

Of:

(Address of person subpoenaed)

You are hereby subpoenaed to appear before a hearing of the Zimbabwe Media Commission to be held at

.....(*Place*) on the

.....(*date*) at (*time*).

The hearing has been convened to hear an appeal

(State subject of appeal and state the reasons for the appeal)

You are required to bring with you:

.....
.....
.....

(if the person subpoenaed is required to bring any document or article, describe it)

S.I. 229 of 2021

Signed at: (place) on the (date).

For the Zimbabwe Media Commission

Recipient of the subpoena:

Name

Signature

Date

[Reverse of form]

Return of Service

To be filled in by the appropriate officer who served this subpoena on the person named therein:

On the (date) and at (place)

I served this subpoena on the person named therein, by:

.....
(State how the subpoena was served)

Signed:

Authorised officer

.....
Name and designation

