

ACCESS TO INFORMATION BILL 2025
(BILL NO. 5 OF 2025)

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BILL NO. 5 OF 2025**A BILL**

FOR AN ACT TO PROVIDE FOR THE REGULATION AND THE PROCEDURES FOR ANY PERSON TO EXERCISE THE RIGHT TO ACCESS INFORMATION HELD BY PUBLIC AGENCIES, GOVERNMENT AND TO AUTHORISE CERTAIN LIMITS ON THE RIGHT TO ACCESS INFORMATION AND FOR OTHER MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY*Short title and commencement*

- 1.—**(1) This Act may be cited as the Access to Information Act 2025.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

- 2.—**(1) In this Act, unless the context otherwise requires—
- “applicant” means a person who makes a request for a public record;
- “ATI Unit” means the unit established in the Ministry of Justice under section 31(1);

“Commission” means the Accountability and Transparency Commission established under section 121 of the Constitution;

“Constitution” means the Constitution of the Republic of Fiji;

“day” means a day that is not a Saturday, Sunday or public holiday;

“disciplined force” has the same meaning as in subsection 163(1) of the Constitution;

“exempt matter” means any matter or information that is exempt from disclosure under this Act;

“Government company” means a company that the Government exercises effective control over, including—

- (a) by the Government owning a majority of the shares;
- (b) by exercising effective control through the direction of a Minister, public officer or any other nominee to the Government;

“information” means any matter that communicates meaning, recorded in any format and is not limited by its format, its date of creation, its source, whether or not it is created by the body that holds it, the official status or classification of the matter;

“information officer” means a person designated under subsection 31(6);

“Minister” means the Minister responsible for the administration of this Act;

“person” includes any natural or legal person, regardless of his or her citizenship or place of residence;

“personal information” means any information relating to a natural person from which that person may, directly or indirectly, be identified, excluding any information that is held in respect of the person in the person’s capacity as an officer or employee of a public agency or as an independent contractor engaged by a public agency;

“public agency” means—

- (a) an office, commission, court, tribunal or legislative body created by, or continued in existence under, the Constitution or any written law;
- (b) an office in respect of which the Constitution makes provision;
- (c) a Government ministry, department, division or unit;
- (d) a disciplined force;
- (e) a statutory authority;
- (f) a Government company;
- (g) any body which is owned or controlled by a body described in subsections (a) to (f); or

(h) any body which receives core funding support from a body described in subsections (a) to (g) or which undertakes a public function;

“public record” means information which is held by a public agency, and includes both information in a record and a record;

“State” means the Republic of Fiji; and

“third party” means a person who is not the applicant, the ATI Unit, a public agency or a staff member, employee, agent or consultant of the ATI Unit or a public agency acting in that capacity;

Act to bind the State

3. This Act binds the State.

Objectives

4.—(1) The objectives of this Act are—

- (a) to make provision for the exercise by a person of the right to access to information under sections 25 and 150 of the Constitution;
- (b) to recognise the right of a person to access information held by a public agency in accordance with the procedures prescribed in this Act;
- (c) to provide for a person to make a request to correct or delete personal information held by a public agency where necessary to ensure that the information is correct, accurate, complete and not misleading;
- (d) to promote good governance and greater accountability in Government;
- (e) to reduce corruption;
- (f) to foster more effective participation in governance;
- (g) to support sound and sustainable development;
- (h) to create a fair, level-playing field environment for business; and
- (i) to ensure that a person is informed of the operations of a public agency, including the rules and practices followed by the public agency in its dealings with members of the public.

(2) The provisions of this Act and, in particular, the exemptions and limitations must be interpreted so as to give effect to the reasonable meaning of the terms and promote the objects of this Act.

Prescribed public agencies

5.—(1) The Minister may, by notice in the Gazette and following consultation with the Commission, extend the obligations imposed by this Act on public agencies to cover additional entities and the extension will take effect on the date prescribed in the notice.

(2) The Minister may, by notice in the Gazette and following consultation with the Commission, revoke an extension of this Act made under subsection (1) and the revocation will take effect on the date prescribed in the notice.

PART 2—RIGHT TO INFORMATION

*Division 1—Making a request for information**Right of access to information*

6. In accordance with this Act, a person has a right to access any public record held by a public agency.

Request for access to information

7.—(1) An applicant may make a request to the ATI Unit or a public agency for a public record held by the Government or the public agency.

(2) A request made under subsection (1) may be made by the applicant in person, electronically, by mail or fax.

(3) A request made under subsection (1) must—

- (a) specify the particulars relating to the public record requested, as are necessary to enable the ATI Unit or an information officer, to identify, with reasonable effort, the information requested; and
- (b) provide an address for communicating with the applicant and for delivering the public record to the applicant.

(4) A request made under subsection (1) may—

- (a) specify the format preferred by the applicant for accessing the public record; and
- (b) state why the applicant believes he or she should be the subject of a fee waiver under section 10.

(5) An applicant must not be required to provide any reasons for making the request or any information in addition to that specified in subsection (3) when making a request for a public record.

(6) The Minister may make regulations to prescribe a form for making a request for a public record.

Note

Section 68 of the Interpretation Act 1967 provides that a form in or to the like effect of a prescribed form must, unless the contrary intention appears, be sufficient in law.

Assistance to applicants

8.—(1) If a request for a public record is not sufficiently clear or does not comply with any requirement under section 7, the ATI Unit or an information officer, as the case requires, must provide to the applicant any reasonable assistance necessary to enable him or her to make a valid request.

(2) An individual who is unable, because of illiteracy or disability, to make a written request for a public record may make an oral request and the ATI Unit or an information officer, as the case requires, must record the request in writing, specifying his or her name, position and signature, and give a copy of the request to the individual.

(3) In giving access to a public record, the ATI Unit or an information officer, as the case requires, must take such measures as are reasonably practicable to ensure that a person with a disability is able to access information, consistent with section 42 of the Constitution.

Receipt for request

9. If the ATI Unit or a public agency receives a request for a public record, it must as soon as possible and in any case within three days, provide the applicant with a signed receipt documenting the request, including the date and subject matter of the request.

Waiving, reduction of fees and refunds

10.—(1) The ATI Unit or a public agency may waive or reduce any fees payable or paid by a person under this Act, if satisfied that in all the circumstances it is appropriate to do so.

(2) A waiver or reduction under subsection (1) may be—

- (a) in whole or in part;
- (b) in respect of certain matters or classes of matters;
- (c) in respect of certain persons or classes of persons; and
- (d) subject to specified conditions.

(3) The ATI Unit or public agency may refund any payment of a charge under subsection 13(2)(b) in excess of the estimated cost of processing a request.

Division 2—Responding to requests

Transfer of requests

11. If the ATI Unit or the public agency receives a request for a public record that the Government does not hold, it must—

- (a) if the ATI Unit or the public agency reasonably believes the public record is held by another public agency (“the second public agency”), transfer the request as soon as possible and in any case within five days to the second public agency, and inform the applicant of the transfer; or
- (b) if the ATI Unit or the public agency, is not aware of another public agency which holds the public record, inform the applicant of that fact.

Time limits for responding to requests

12.—(1) The ATI Unit or a public agency which received a request for a public record must respond to the request as soon as reasonably practical and in any case within 15 days from receipt of the request.

(2) The ATI Unit or the public agency may, by notice in writing to the applicant within the initial 15 day period under subsection (1), extend the period to the extent strictly necessary and in any case to not more than an additional 20 days.

(3) An extension of the 15 day initial period under subsection (1) may be made under subsection (2) if—

- (a) a request is for a large number of public records; or
- (b) a request requires a search to be conducted through a large number of public records; or
- (c) a request requires consultation with third parties;

and compliance with the 15 day initial period under subsection (1) would unreasonably interfere with the ATI Unit or the public agency's operations.

(4) If an applicant requires access to a requested public record as a strict matter of urgency to protect the life or liberty of a person, the request must be responded to as soon as reasonably practicable and in any case within two days from the receipt of the request.

Fees relating to requests

13.—(1) An applicant must not be required to pay a fee—

- (a) to make a request for a public record; or
- (b) to make a request for personal information, unless the payment of the fee is a requirement under any other written law that regulates information about that personal information; or
- (c) for a request made in the public interest; or
- (d) in any other case, if the ATI Unit or the public agency fails to provide the public record within a time limit specified in section 12

(2) An applicant may be required to pay a prescribed fee or charge for any of the following services—

- (a) if a request is for a public record that is more than 20 pages, the cost of printing and communicating or sending the printed pages of the public record that are in excess of the first 20 pages, to the applicant; or
- (b) if the ATI Unit or a public agency reasonably estimates that the time required to process a request may exceed 30 hours, the applicant may be required to pay a charge in advance of processing the request, for the reasonable estimate of the staff time less 15 hours, at a fair rate or a rate as may be prescribed by regulations.

(3) The ATI Unit or a public agency must refund any charge amount to the applicant if the amount of staff time required to process the request is less than the estimate used to impose the charge under subsection (2)(b).

(4) The Minister may make regulations—

- (a) to fix fees for different information services; or
- (b) to provide for a case or classes of case that are exempt from any fee; or

- (c) to provide for the maximum fee that may be fixed.

Forms of access

14.—(1) If a request indicates a preference set out in subsection (2), as to the form of communication of a public record, the ATI Unit or a public agency must provide access to the public record in accordance with that preference.

(2) A request may indicate any of the following preferences as to the form of communication of a public record—

- (a) by giving the applicant, a reasonable opportunity to inspect the public record, where necessary using equipment normally available to the public agency which holds the information;
- (b) by giving the applicant a copy of the public record in electronic or physical form;
- (c) by giving the applicant an opportunity to copy the public record, using his or her own equipment;
- (d) in the case of a public record that is an article or material from which sounds or images are capable of being reproduced, by giving the applicant a copy of the articles or material or by making arrangements for the person to hear those sounds or view those images; or
- (e) in the case of a public record that is a document where words are recorded in a way in which the words are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form, by providing the applicant with a written transcript of the words recorded or contained in the document.

(3) A public agency must make the public record available in the form preferred by the applicant unless to do so would—

- (a) unreasonably interfere with the effective operation of the public agency which holds the record;
- (b) be detrimental to the preservation of the public record; or
- (c) involve an infringement of copyright, other than copyright owned by the State or a public agency, subsisting in matter contained in the public record.

(4) If, pursuant to subsection (3), a public record can be made available in a form other than the one preferred by the applicant, the public agency—

- (a) may make the public record available in another form as determined by the public agency; and
- (b) must give the applicant a written statement of the reason for not making the public record available in the form preferred by him or her.

(5) If an applicant has indicated that access to a public record be given in a particular form and access in that form is refused but given in another form, the applicant is not required to pay a charge in respect of the giving of access that is greater than the charge that the applicant would have been required to pay had access been given in the form preferred by him or her.

(6) This section does not prevent a public agency from giving access to a public record in any other form agreed on between the public agency and the applicant.

(7) Where a public record exists in more than one language, communication of the record must, from among those languages, be given in accordance with any language preference indicated by the applicant.

Information stored electronically

15. If—

- (a) it appears to a public agency that a request relates to information of a kind that is not contained in a public record held by the public agency; and
- (b) the public agency may, with a reasonable amount of effort, create a public record containing information of that kind by the use of equipment that is usually available to it for retrieving or collating stored information,

the public agency must deal with the request as if it were a request for a public record so created and the public agency is taken to hold such a public record.

Refusal of request

16.—(1) The ATI Unit or a public agency, must refuse a request made under section 7 if it is satisfied that—

- (a) the public record is exempt from disclosure in accordance with Division 3 of Part 2 of this Act and under section 20(c), (d), (f), (i), (j) or (k); or
- (b) all reasonable measures have been taken to locate the public record requested and no such record exists or the record cannot be located.

(2) The ATI Unit or a public agency, may refuse a request made under section 7 if it is satisfied that—

- (a) the public record is exempt from disclosure in accordance with Division 3 of Part 2 of this Act and under section 20(a), (b), (e), (g), (h) or (l); or
- (b) request does not comply with the requirements set out in section 7, but only after offering assistance, as provided for in section 8.

Notice of response

17.—(1) The response under section 12 to a request for a public record must be by notice in writing and state—

- (a) in relation to any part of the request which is granted, the applicable fee, if any, and the form in which the information will be communicated; and

- (b) in relation to any part of the request which is not granted, adequate reasons for the refusal, including the provision of this Act which is being relied on for the refusal and information about the right of the applicant to apply for review of the decision.

(2) In relation to any part of a request which is granted, communication of the information must take place as soon as possible on payment of any fee.

Division 3—Exemptions and limitations on disclosure of information

Public interest override

18.—(1) Despite any provision of this Act, the ATI Unit or a public agency may not refuse to disclose a public record unless the harm from disclosure to the interest which is protected by that provision outweighs the public interest in disclosure.

(2) For purposes of subsection (1), the public interest must include but must not be limited to—

- (a) combatting corruption;
- (b) protecting the environment;
- (c) exposing illegal, unprofessional or otherwise unacceptable behaviour, wrongdoing or maladministration;
- (d) exposing a threat to safety or health;
- (e) improving public participation in governance; and
- (f) holding State actors to account.

Other overrides for exemptions

19.—(1) Despite any provision in this Act, the ATI Unit or a public agency may refuse a request for information where the information is already publicly available provided that, in this case, they respond to the request by directing the applicant to a public source for the information, such as a URL.

(2) Sections 20(a), (b), (e), (g), (h) and (l) do not apply to a public record which is more than 20 years old.

(3) Despite subsection (2), if the Minister or other person who heads the public agency which holds a public record decides that disclosure of that record would continue to pose a risk to the interests protected by the section listed in subsection (2), he or she may, by an internal written notice to that effect, and prior to the expiry of the 20-year period mentioned in subsection (2), extend the period of protection under those sections for an additional period of up to 20 years.

Limitations on the right of access to information

20. The following information contained in a public record must not be disclosed under this Act—

- (a) information, the disclosure of which would adversely affect the sovereignty or security of Fiji;

- (b) information, the disclosure of which would or would be likely to cause serious prejudice—
 - (i) to the prevention or detection of crime;
 - (ii) to the apprehension or prosecution of an offender;
 - (iii) to the administration of justice;
 - (iv) to the assessment or collection of any tax or duty;
 - (v) to the operation of immigration controls; or
 - (vi) to the assessment by a public agency of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified;
- (c) information that is subject to legal professional privilege;
- (d) information available to a person in the exercise of the person's fiduciary duty, the disclosure of which would or would be likely to harm the interests protected by the fiduciary duty;
- (e) information received in confidence from a foreign government or an international organisation, the disclosure of which would adversely affect relations between Fiji and that foreign government or international organisation, or information the disclosure of which would or would be likely to undermine the ability of Fiji or a public agency in Fiji to conduct successful negotiations with another country, inter-governmental organisation or corporate entity;
- (f) information, the disclosure of which would endanger the life or safety of any person;
- (g) information, the disclosure of which would identify the source of information or assistance given in confidence for the purposes of law enforcement or security and thereby expose that source to risk;
- (h) information the disclosure of which would, provided that this does not apply to facts, analyses of facts, technical data or statistical information—
 - (i) cause serious prejudice to the effective formulation or development of Government policy;
 - (ii) seriously frustrate the success of a policy, by premature disclosure of that policy;
 - (iii) significantly undermine the deliberative process within or between public agencies by inhibiting the free and frank provision of advice or exchange of views;
 - (iv) undermine the collective responsibility of Cabinet; or

- (v) significantly undermine the effectiveness of an ongoing investigation, or testing or auditing procedure used by a public agency;
- (i) information the disclosure of which would cause the unwarranted invasion of privacy of the person;
- (j) information, the disclosure of which would endanger or harm any protected site or the environment;
- (k) information which was provided in confidence by a third party and either is a trade secret or the disclosure of which would or would be likely to prejudice seriously the legitimate commercial or financial interests of the third party who provided it; and
- (l) information the disclosure of which would or would be likely to cause serious prejudice to the ability of the Government to manage the economy, or to the legitimate commercial or financial interests of a public agency.

Severance of exempt matter

- 21.** The ATI Unit or a public agency must give an applicant access to a public record if—
- (a) a request is made for access to a public record containing any exempt matter; and
 - (b) it is reasonably practicable to delete the exempt matter and give access to a copy of the redacted public record.

Consultation with third parties

22.—(1) If a request relates to a public record provided on a confidential basis by a third party, the ATI Unit or a public agency must endeavour to contact that third party with a view to obtaining either his or her consent to disclosure of the public record or his or her objections to disclosure.

(2) If a third party objects to disclosure, his or her objections must be taken into account but the decision as to whether or not the information falls within the scope of an exemption or limitation under this Act must be assessed by the ATI Unit or the public agency, on the basis of objective considerations.

PART 3—RIGHT TO CORRECTION AND DELETION OF INCORRECT PERSONAL INFORMATION

Request for correction or deletion of personal information

- 23.—**(1) If—
- (a) whether under this Act or in any other manner, personal information contained in a public record has been made available to the individual to whom that information relates by a public agency; and
 - (b) the individual claims that the personal information in the public record is incorrect, inaccurate, incomplete or misleading, that individual may request the public agency to—
 - (i) correct the information;

- (ii) delete incorrect, inaccurate or misleading information; or
- (iii) annotate the public record.

(2) A request under subsection (1) must—

- (a) be in writing;
- (b) specify the particulars that are reasonably necessary to enable the public record to be identified;
- (c) specify the particulars that the individual claims are necessary to correct, or delete information in, the public record; and
- (d) specify a postal address to which notices under this Part are to be sent.

Determination of request for correction or deletion of personal information

24. When a public agency receives a request under section 23, the public agency must, within 10 days from the receipt of the request, determine whether to accept or refuse the request.

Acceptance of request for correction or deletion of personal information

25.—(1) If the public agency accepts the request made under section 23, the public agency must within 30 days from the receipt of the request, in accordance with the particulars of the request—

- (a) correct the public record; or
- (b) delete incorrect, inaccurate or misleading information; or
- (c) annotate the public record.

(2) The public agency may include written comments on the public record when annotating personal information under this section.

(3) If changes are made to a public record pursuant to subsection (1), the public agency must, within 5 days from making those changes, provide the individual who made the request with a written statement of the changes made.

Refusal of request for correction or deletion of personal information

26.—(1) A public agency may refuse a request under section 23, if—

- (a) the public agency is satisfied that the information in the public record is correct, accurate, complete and not misleading;
- (b) the public agency is satisfied that the request contains material particulars that are incorrect, inaccurate, incomplete or misleading; or
- (c) the procedures for correcting or deleting the information in the public record are specified by or provided for under any other written law, whether or not the correction or deletion of the information in the public record is subject to a fee or charge.

(2) If a request is refused under subsection (1), the public agency must, within 20 days from the receipt of the request, provide the individual who made the request with a written statement of the decision and the reason for the refusal of the request.

Notations to be included in documents

27.—(1) If a public agency has refused to correct or delete information in a public record under section 26, the concerned individual may, by notice in writing, request the public agency to include in that public record a notation—

- (a) specifying the particulars in which the individual claims that the information is incorrect, inaccurate, incomplete or misleading; and
- (b) setting out such information as the individual claims is necessary to ensure that the information is correct, accurate, complete and not misleading.

(2) A public agency must—

- (a) comply with the request made under subsection (1); and
- (b) inform the concerned individual in writing of the nature of the notation.

(3) If a public agency discloses to any other person or public agency any information contained in a public record to which a request under this section relates, the public agency—

- (a) must provide to that other person or public agency, when the information is disclosed, a statement—
 - (i) that the individual to whom the information relates claims that the information is incorrect, inaccurate, incomplete or misleading; and
 - (ii) setting out particulars of the notation included in the public record under this section; and
- (b) may include in the statement the reason for the refusal by the public agency to correct or delete the information in the public record in accordance with the notation.

Incomplete requests

28. In relation to section 23, the public agency must—

- (a) accept a request even if the request does not contain sufficient particulars to enable the public record to be identified; and
- (b) take reasonable steps to assist the person in providing such particulars.

PART 4—PROMOTING ACCESS TO INFORMATION

Public agencies to make information available proactively

29.—(1) A public agency must, within 12 months from the application of this Act to that public agency, ensure that the following information is available proactively to members of the public—

- (a) the structure, responsibilities and functions of the public agency including, in relation to the latter, any services offered to the public, along with relevant forms, application deadlines and other instructions for obtaining those services;

- (b) a list of the entities falling under the public agency, as well as the location of the public agency, opening hours and subjects handled;
- (c) the title, business address and contact details of the head of the public agency and, as relevant, the information officer or ATI Unit;
- (d) a directory of the public agency's officers and employees, a brief description of the powers and duties of the officers and employees, and contact details for any officers and employees who are responsible for dealing with the public;
- (e) the particulars of the public agency's finances including its annual budget, actual annual revenue and expenditure reports, and audit reports;
- (f) detailed information on procurement processes, criteria for and outcomes of tenders, and particulars of any concessions, permits, licences or authorisations granted by it;
- (g) copies of contracts over FJD 5,000, and any reports which have been prepared on completion of contracts;
- (h) a list of the core public records and categories of public records held by the public agency;
- (i) all manuals and documents that contain policies, strategies, plans, principles, legal instruments, rules or guidelines in accordance with which the public agency operates, including in terms of making decisions or recommendations;
- (j) information about the mechanisms and procedures for consultation with the public agency, and opportunities for public participation in its work;
- (k) details of any projects and programmes the public agency is implementing;
- (l) the process to be followed by members of the public who wish to obtain information from the public agency or correct or delete personal information held by the public agency; and
- (m) such other information as may be prescribed by the Commission by notice in the Gazette.

(2) The public agency may, before making any of the information listed in subsection (1) available to the public, redact from it any exempt matter.

(3) The information listed in subsection (1) must, if it changes, be updated promptly and in any case within three months.

(4) In addition to publishing the information listed in subsection (1)(k) online, an effort must be made to ensure that it is, as relevant, brought to the attention of those likely to be particularly affected by the project or programme in question.

Right of reuse

30.—(1) Anyone who has received a public record legally, whether pursuant to this Act or in any other way, has the right freely to reuse that public record, including by adapting, reproducing or sharing the public record, free of copyright or database right restrictions, subject to this section.

(2) The Minister may adopt reuse licences, in accordance with international standards in this area, which place certain conditions on the reuse of public records and which the ATI Unit or a public agency may attach to public records they disclose, whether proactively, in response to a request under this Act or otherwise.

Information officers and the ATI Unit

31.—(1) The ATI Unit within the Ministry of Justice is established.

(2) The ATI Unit has the function of receiving and processing requests for public records and for the correction and deletion of personal information, as provided for under this Act, within the Government.

(3) The ATI Unit must be allocated adequate staff, of sufficiently senior levels, as are required to enable it to perform its functions as are set out in this Act.

(4) Public agencies which form part of the Government must designate one officer as liaison officer for purposes of cooperating with the ATI Unit, provided that an alternate officer must be designated for such times as the primary officer is absent.

(5) The designated officer under subsection (4) must collaborate promptly and efficiently with the ATI Unit so as to allow it to process requests for information in accordance with the rules set out in this Act, including as to time limits.

(6) Public agencies which do not form part of the Government must designate an employee of rank of not less than senior legal officer of that public agency to be the information officer of that public agency, along with an alternate information officer for such times as the primary information officer is absent, to facilitate the processing of requests for public records and for the correction and deletion of personal information, as provided for under this Act.

(7) The Ministry of Justice must ensure that the staff of the ATI Unit receive appropriate training on implementation of this Act while public agencies which do not form part of the Government must ensure that their information officers receive appropriate training on implementation of this Act.

(8) The information officer or designated officer, respectively, must promote, within the respective public agency, best practices in relation to—

- (a) the right of access to information, its importance and the role of the information officer, designated officer or ATI Unit in facilitating that right;
- (b) the right to correct and delete personal information that is incorrect, inaccurate, incomplete or misleading; and
- (c) records management and the archiving and disposal of records;

- (9) The ATI Unit or information officer, as relevant, must—
- (a) serve as a central contact for receiving requests for public records under this Act;
 - (b) assist persons seeking information or the correction or deletion of personal information under this Act; and
 - (c) carry out any other functions as set out in this Act or any other written law.

Responsibilities of public agencies

32.—(1) Public agencies must ensure that their records are maintained in accordance with any minimum standards prescribed for this purpose by the Commission.

(2) Public agencies which do not form part of the Government must prepare an annual report, which may be a chapter in a more general annual report, describing their activities to implement this Act, including detailed statistical information about the requests for public records they have received and how they have been processed.

(3) The ATI Unit must prepare a collective annual report containing the information set out in subsection (2) on behalf of all of the public agencies which form part of the Government.

(4) The annual reports provided for in subsections (2) and (3) must be forwarded to the Commission not later than three months after the end of each fiscal year and also published online.

PART 5—MISCELLANEOUS

Unlawful access

33. A person who, in order to gain access to personal information of another person, knowingly deceives or misleads the Commission or any public agency to provide such information commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.

Preservation of other transparency provisions

34. This Act does not affect the operation of any written law that—

- (a) requires information held by a public agency to be made available;
- (b) enables a person to obtain access to information held by a public agency; or
- (c) enables a person to ensure that the person's personal information held by a public agency is accurate, complete and not misleading.

Defunct public agencies

35. Any information held by a public agency that has ceased to exist is taken to be held—

- (a) if the former public agency's functions have been transferred to another public agency, by the other public agency;

- (b) if the former public agency's functions have been transferred to 2 or more other public agencies, by the public agency to which the information most closely relates; or
- (c) if the former public agency's functions have not been transferred to another public agency, by such other public agency to which the information most closely relates as determined by the Commission.

Documents in certain public agencies

36. Any information held by—

- (a) the National Archives of Fiji;
- (b) the Fiji Museum;
- (c) a library of a public agency; or
- (d) any other prescribed public agency—

but that has been produced by a public agency other than those in paragraphs (a) to (d) are taken to be held by the other public agency.

Protection in respect of legal and employment-related actions

37.—(1) No one may be subject to administrative, civil or criminal law action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Act, as long as they acted reasonably and in good faith.

(2) The giving of access to information pursuant to this Act is not to be taken to constitute, for the purposes of the law relating to defamation or breach of confidence, an authorisation or approval of the publication of the information or its contents by the person to whom access is given.

Offence for wilful obstruction of access to information

38.—(1) It is a disciplinary offence to wilfully obstruct access to any public record contrary to this Act.

(2) Disciplinary offences under this Act must be subject to appropriate employment-related sanctions, including wage deductions.

(3) It is a criminal offence wilfully to—

- (a) obstruct the performance by a public agency of a duty under this Act;
- (b) interfere with the work of the ATI Unit or the Commission; or
- (c) destroy records without lawful authority.

(4) Anyone who commits an offence under subsection (1) must be liable on summary conviction to a fine not exceeding \$2,000.

Regulations

39. The Minister may, in consultation with the Commission, make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

PART 6—REPEALS

Repeal of Information Act 2018

40. The Information Act 2018 is repealed.

March 2025

ACCESS TO INFORMATION BILL 2025

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Information Act 2018 that was enacted is yet to commence. The reasons for the law not coming into operation is due to the written law required to enable the Accountability and Transparency Commission to operate not being enacted.
- 1.2 Access to information is a right which is protected under sections 25 and 150 of the Constitution and by Article 19 of the International Covenant on Civil and Political Rights, which Fiji has ratified.
- 1.3 Given the weaknesses found in the Information Act 2018, it is clear that a new law is required. This Bill addresses this need and repeals entirely the Information Act 2018 to propose a new access to information law.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the Act will come into force on the date or dates stipulated by the Minister.
- 2.2 Clause 2 of the Bill contains the definitions of the key terms which are used in a specialised manner in the Bill. Among other things, it defines a “Government company” as one over which the Government exercises effective control, “information” as any matter that communicates meaning, “person” as any natural or legal person, regardless of citizenship or residence, “personal information” as any information relating to a natural person from which the person may be identified, “public agency” as including any body created by the Constitution or a law, a Government ministry, department, division or unit, a Government company, a body which is owned or controlled by one of the foregoing or a body which receives core funding support from one of the foregoing or undertakes a public function, and a “third party” as a person who is not a person requesting information or a public agency.

- 2.3 Clause 3 of the Bill indicates that it binds the State.
- 2.4 Clause 4 of the Bill sets out the objectives of the Act, including functional objectives such as to give effect to sections 25 and 150 of the Constitution, to recognise the right to access information held by public agencies and to ensure that Fijians are informed about the work of their public agencies. The objectives also include wider benefits, such as to promote good governance and accountability, to reduce corruption, to foster participation, to support sustainable development and to create a level playing field for business. Finally, this clause calls for the provisions of the Act, when they are being interpreted, to be given the reasonable meaning which best promotes the objectives.
- 2.5 Clause 5 of the Bill allows the Minister, by notice in the Gazette, to screen in additional bodies to be covered by the Act.
- 2.6 Clause 6 of the Bill sets out the right of a person to access public records held by public agencies.
- 2.7 Clause 7 of the Bill provides for requests to go directly to the ATI Unit or the relevant public agency. Requests may be made in different ways, including electronically. Subsections (3) and (4) set out limited information that may be required or may be provided on a request, and subsection (5) clarifies that no other information, including as to the reasons for making a request, may be demanded. Subsection (6) provides for the Minister to prescribe a form for making requests.
- 2.8 Clause 8 of the Bill requires assistance to be provided to an applicant where a request does not comply with the rules in section 7 or where an applicant needs it because he or she is disabled or illiterate. And, in giving access, public agencies must ensure equality for persons with disabilities, as required by section 42 of the Constitution.
- 2.9 Clause 9 of the Bill requires applicants to be provided promptly with a receipt against their requests.
- 2.10 Clause 10 of the Bill provides that the ATI Unit may waive or reduce the fees payable for a request, in whole or in part, in respect of certain matters or persons or subject to specified conditions. The clause also provides for the refund of charges.
- 2.11 Clause 11 of the Bill requires the ATI Unit or a public agency which receives a request for information it does not hold to transfer requests where possible (i.e. where it knows which agency does hold the information) or to inform the applicant where this is not possible.

- 2.12 Clause 12 of the Bill limits the initial time limit for responding to requests to 15 days, allows for extensions of up to 20 days for cause and after giving notice to the applicant, and provides for responses to urgent requests within two days where the information sought concerns the life or liberty of a person.
- 2.13 Clause 13 of the Bill provides that no fee may be charged simply for making a request, where requests are responded to late, or for requests for personal information or information in the public interest, that the only fees which may be charged are for copying and sending copies of the information, with the first 20 pages to be provided for free, that fees for time may be charged for very large (over 30 hours of processing time) requests, and that the Minister may make regulations setting a central schedule of fees.
- 2.14 Clause 14 of the Bill requires public agencies to comply with applicants' preference in terms of form of access, as long as this conforms to the list of options provided in that section, and subject to limited exceptions, such as where this would harm the record, interfere with the operations of the public agency or breach third party copyright. In case an exception is applied, the record may be provided in another form but the applicant shall not be charged more than if he or she had been provided access in the form preferred. Information shall be provided in the language preferred by the applicant, where the record exists in that language.
- 2.15 Clause 15 of the Bill provides for a record to be created from information which is stored electronically, so as to provide it to an applicant, as long as this may be done with a reasonable amount of effort.
- 2.16 Clause 16 of the Bill sets out the cases where a public agency either must or may refuse access, largely depending on the nature of the exemption in the Act (with exemptions protecting public interests mainly being discretionary as to refusal and those protecting private interests being mandatory).
- 2.17 Clause 17 of the Bill indicates what must be included on the notice provided to applicants in case their request is either accepted (the fee and form of access) or refused (the exact reasons for this and their right to make a complaint against this decision).
- 2.18 Clause 18 of the Bill sets out a public interest override for exemptions. It also sets out a non-exclusive list of public interest considerations, such as combatting corruption, protecting the environment and exposing wrongdoing.
- 2.19 Clause 19 of the Bill sets out other overrides for exemptions, such as where the information is already public or where information is over 20 years old and the relevant exemption refers to a public interest (such as security or law

enforcement), known as a sunset clause. This section also provides for the relevant minister to override the sunset clause in cases where the information still remains sensitive.

- 2.20 Clause 20 of the Bill provides for a complete set of primary grounds for refusing access to information (exemptions). These include where disclosure would harm sovereignty or security, the administration of justice, relations with foreign governments, the exercise of fiduciary duties, internal government deliberations, the life or safety of any person, confidential sources of information, privacy, commercial operations, the ability of the Government to manage the economy or the environment, as well as information that is subject to legal professional privilege.
- 2.21 Clause 21 of the Bill calls for the redaction of sensitive information and the provision of the rest of the document.
- 2.22 Clause 22 of the Bill mandates consultations with third parties when requests are made for information provided by them to public agencies on a confidential basis. It makes it clear that third parties may either consent to disclosure or object to it and, in the latter case, while their objections will be taken into account, they do not constitute a veto.
- 2.23 Clause 23 of the Bill provides for individuals to make requests in writing for the correction, deletion or annotation of personal information about them which is incorrect, inaccurate, incomplete or misleading.
- 2.24 Clause 24 of the Bill requires public agencies to respond to requests under clause 23 within 10 days.
- 2.25 Clause 25 of the Bill requires public agencies, where they accept a request under clause 23, to correct, delete or annotate the personal information within 30 days, and to notify the individual concerned within 5 days.
- 2.26 Clause 26 of the Bill provides for public agencies to refuse requests under clause 23 within 20 days where the personal information is correct, accurate, complete and not misleading, where the request itself contains errors or where the request should be dealt with under another law.
- 2.27 Clause 27 of the Bill enables an individual whose request under clause 23 has been refused to include a notation in the record setting out their claims as to how the personal information is incorrect, inaccurate, incomplete or misleading.
- 2.28 Clause 28 of the Bill provides for the acceptance of even incomplete requests under clause 23 and for the provision of assistance to individuals to address this.

- 2.29 Clause 29 of the Bill makes it mandatory for public agencies to disclose and then update regularly a long list of types of public interest information, which may be extended by the Accountability and Transparency Commission. Information about projects being undertaken in a community are required to be posted in the affected community as well as online.
- 2.30 Clause 30 of the Bill addresses the reuse of public records, authorising this and providing for the Minister to adopt reuse licences which may be attached to public records when they are released.
- 2.31 Clause 31 of the Bill provides for a central ATI Unit, housed in the Ministry of Justice, to handle all requests directed at the executive branch of Government, which can be expected to be the large majority of all requests. It calls for the Unit to be properly staffed, at a sufficiently senior level, to enable it to discharge its responsibilities. Public agencies in the executive branch are then required to appoint liaison officers to collaborate with the ATI Unit, while other public agencies are still required to appoint their own information officers, of a sufficiently senior rank. All public agencies must also appoint alternate liaison officers or information officers. And the Ministry of Justice is required to ensure that the ATI Unit staff receive appropriate training, and public agencies which are not part of the executive branch must do the same for their information officers. The information and designated officers must promote various best practices within their agencies.
- 2.32 Clause 32 of the Bill places some additional obligations on public agencies. They are required to maintain their records in accordance with any minimum standards prescribed by the Commission. They are also required to prepare annual reports on what they have done to implement the Act, including detailed information on how they have processed requests, with the ATI Unit doing this centrally for executive agencies. These annual reports are to be provided to the Commission within three months of the end of the fiscal year and also published online.
- 2.33 Clause 33 of the Bill provides for sanctions for those who, in order to access personal information of another person, knowingly deceive or mislead the Commission or any public agency.
- 2.34 Clause 34 of the Bill preserves transparency rules in other legislation.
- 2.35 Clause 35 of the Bill sets out which agency is deemed to hold information which was previously held by a public agency which has ceased to exist.
- 2.36 Clause 36 of the Bill provides that information held by certain public agencies – such as the National Archives of Fiji or various libraries – are deemed to be held by the agency which produced them.

- 2.37 Clause 37 of the Bill provides for protection against any administrative, civil or criminal law action, as well as any employment detriment for those acting reasonably and in good faith to implement the law.
- 2.38 Clause 38 of the Bill provides for sanctions for wilful obstruction of access to information. These include both disciplinary and criminal sanctions, the latter applying to more serious forms of obstruction such as destroying records without authority and obstructing transparency on the part of public agencies. Disciplinary offences are subject to appropriate employment-related sanctions, including wage deductions, while criminal offences are subject to an as yet unspecified fine.
- 2.39 Clause 39 of the Bill provides for the Minister, in consultation with the Commission, to adopt regulations required or permitted by the Act.
- 2.40 Clause 40 of the Bill repeals the Information Act 2018.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The new legislation comes under the responsibility of the Attorney-General.

G. E. LEUNG
Attorney-General