MINISTERIAL STATEMENT

Tabling of the Public Access to Information Amendment Bill 2024

Presented by:

The Hon. Crystal Caesar, JP, MP

Ministry of the Cabinet Office

15th November 2024

Mr. Speaker,

Today, I am pleased to table for the consideration of this Honourable House the **Public Access to Information Amendment Bill 2024.**

Mr. Speaker, the Public Access to Information Act, PATI, provides important rights to access to records held by public authorities. PATI forms part of a robust "information rights" framework that creates transparency and accountability.

Mr. Speaker, this bill includes the introduction of 'reasonable charges' which places limits on the time spent by public authorities in responding to requests, and provides for payment for requests where processing by the public authority exceeds this.

Mr. Speaker, this bill will also provide necessary updates between the Act and the Regulations providing for greater clarity and alignment, for enhanced cohesion and implementation of processes, along with updates to provision of functions to Information Officers and some provisions of functions and procedures regarding the Information Commissioner.

Thank you, **Mr. Speaker.**

A BILL

entitled

PUBLIC ACCESS TO INFORMATION AMENDMENT ACT 2024

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SCHEDULE
Minor, Procedural & Consequential Amendments

WHEREAS it is expedient to amend the Public Access to Information Act 2010 and the Public Access to Information Regulations 2014 to insert limits on the time spent by public authorities responding to requests, to provide for the payment of charges in respect of certain requests, to provide an exception for records relating to the Legal Aid Office, and to make minor, procedural and consequential amendments;

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

Preliminary

Citation and interpretation

1 (1) This Act may be cited as the Public Access to Information Amendment Act 2024.

(2) In this Act—

"principal Act" means the Public Access to Information Act 2010;

"principal Regulations" means the Public Access to Information Regulations 2014.

Amends the Public Access to Information Act 2010

Amends section 2

2 In section 2 of the principal Act (purpose), delete paragraph (a) and substitute—

"(a) give the public the right to obtain access to information held by public authorities to the greatest extent possible in accordance with this Act, subject to exceptions that are in the public interest or for the protection of the rights of others, and subject to a charge in certain circumstances;".

Amends section 4

3 In section 4 of the principal Act (application), after subsection (1)(b)(v) insert—

"(va) the Legal Aid Office;".

Amends section 6

4 In section 6 of the principal Act (provision of other information), in subsection (4) delete "other than information" and substitute "and the information (other than any personal information not already disclosed)".

Amends section 12

5 In section 12 of the principal Act (access to records)—

(a) in subsection (4), after "to deal with the request" insert "or process payment of any fee or charge";

(b) after subsection (4) insert—

"(5) For the avoidance of doubt, subsection (1) is subject to section 13A (appropriate limit and upper limit) and section 16 (refusal of request on administrative grounds)."

Inserts section 13A

6 After section 13 of the principal Act insert—

"**Appropriate limit and upper limit**

13A (1) On receipt of a request, a public authority shall estimate, in accordance with regulations, whether the time needed to respond to the request is likely to exceed—

(a) the appropriate limit; or

(b) the upper limit.

(2) The "appropriate limit" is 16 hours.

(3) The "upper limit" is 100 hours.

(4) A public authority is not required to grant a request if the estimated time required to respond exceeds the appropriate limit.

(5) A charge shall be imposed by the public authority in respect of each hour in excess of the appropriate limit taken to respond to the request.

(6) A public authority shall not grant a request if the estimated time required to respond exceeds the upper limit, and shall not continue to process a request once the upper limit has been reached."

Amends section 16

7 (1) This section amends section 16 of the principal Act (refusal of request on administrative grounds).

(2) In subsection (1)—

(a) after paragraph (b), insert—

"(ba) the estimated time required to respond to the request under section 13A exceeds the appropriate limit;";

(b) in paragraph (c), delete "retrieval and examination" and substitute "search for, retrieval and examination";

(c) delete paragraph (e) and substitute—

"(e) the request is, in the opinion of the information officer, repetitive, frivolous or vexatious;";

(d) in paragraph (g), after "fee" insert "or charge".

(3) In subsection (2), delete "subsection (1)(b) or (c)" and substitute "subsection (1)(b), (ba) or (c)".

(4) After subsection (2) insert—

"(3) For the purposes of subsection (1)(e), a request is repetitive if it is made by a requester who has made a request seeking the same or similar information within the previous three months, whether or not that request was granted in whole or in part."

Amends section 41

8 In section 41 of the principal Act (internal review by authority), after paragraph (a) insert—

"(aa) a decision as to whether the time needed to respond to a request is likely to exceed—

(i) the appropriate limit, and by how much; or

(ii) the upper limit;".

Amends section 47

9 In section 47 of the principal Act (review by Commissioner)—

(a) in subsection (6), delete "as soon as practicable" and substitute "within the review period";

(b) after subsection (6) insert—

"(7) In subsection (6), "the review period" means—

(a) four months; or

(b) such longer period as may be necessary in exceptional circumstances, but not exceeding a further four months."

Amends section 50

10 In section 50 of the principal Act (establishment and appointment), at the end insert—

"(6) The office of Commissioner shall become vacant—

(a) at the expiry of the Commissioner's period of appointment;

(b) if the Commissioner resigns his office in writing to the Governor;

(c) if the Commissioner becomes a Senator or a member of, or a confirmed candidate for election to, the House of Assembly or the holder of any office in any political party; or

(d) if the Governor, acting in his discretion, directs that the Commissioner shall be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, or for contravention of subsection (5)."

Inserts section 52A

11 After section 52 of the principal Act, insert—

"**Delegation by the Commissioner**

52A (1) The Commissioner may delegate in writing to any member of his staff any duty, power or function of the Commissioner under this Act, except the power to delegate.

(2) A delegation under subsection (1) may contain any conditions or restrictions the Commissioner considers appropriate."

Amends the Schedule

12 In the Schedule to the principal Act (which specifies the Heads of Public Authorities for the purposes of the Act)—

(a) after line 2 insert—

"2A.	The Ministry of Finance	The Financial Secretary
2B.	Other Government Ministry	The Permanent Secretary of that Ministry"

(b) in line 12 (every department of the Government), delete the wording in column 2 and substitute "The head of the department";

(c) in line 13 (entities established by statutory provision and carrying out functions of governmental or quasi-governmental nature), delete the wording in column 2 and substitute "The person who fulfils the role of chief executive officer of the entity, or if that person is also the information officer, the chairperson of the entity";

(d) in line 14 (entities owned or controlled by Government etc), delete the wording in column 2 and substitute "The person who fulfils the role of chief executive officer of the entity, or if that person is also the information officer, the chairperson of the entity";

(e) at the end insert—

"NOTE:
The references in lines 2A and 2B to Government Ministries do not include departments within those Ministries - see line 12."

Amends the Public Access to Information Regulations 2014

Inserts regulation 13B

13 After regulation 13A of the principal Regulations, insert—

"**Estimation of time in excess of appropriate limit or upper limit**

13B (1) The time that a public authority reasonably expects to incur in relation to the following matters may be taken into account for the purpose of estimating whether responding to a request is likely to exceed the appropriate limit or upper limit—

(a) extracting a record from a document containing it;

(b) preparing a schedule of relevant records;

(c) reviewing the records and applying any exemptions;

(d) documenting the rationale and decision-making considerations, including the public interest test;

(e) providing a written response with reasons to the requester under section 14(2);

(f) applicable third party processes.

(2) But the following matters may not be taken into account by a public authority for that purpose—

(a) determining whether it holds the record;

(b) estimating whether responding to the request will exceed the appropriate limit or upper limit, and liaising with the requester regarding options in such a case; and

(c) searching for, locating and retrieving the record, or a document which may contain the record."

Final provisions

Amends the Government Fees Regulations 1976

14 In the Government Fees Regulations 1976, at the end of Head 59 (PATI) insert—

"(12)	Charge for time in excess of appropriate limit required by public authority to respond to a request	$60 per hour"

Minor, procedural and consequential amendments

15 The Schedule, which makes minor, procedural and consequential amendments to the principal Act and principal Regulations, has effect.

Commencement and transitional provision

16 (1) The following provisions of this Act shall come into operation on 1 January 2025—

(a) sections 1, 3, 10, 11, and 16;

(b) paragraphs 1(a) and 11 of the Schedule, and section 15 so far as it relates to those paragraphs.

(2) The remaining provisions of this Act shall come into operation on a date appointed by notice published in the Gazette by the Minister with responsibility for the principal Act.

(3) The Minister may, by regulations subject to the negative resolution procedure, make such transitional and saving provision as the Minister considers necessary or expedient in relation to—

(a) requests made under the principal Act before a date appointed under subsection (2); and

(b) internal reviews, reviews by the Information Commissioner and proceedings relating to such requests.

SCHEDULE

(section 15)

MINOR, PROCEDURAL & CONSEQUENTIAL AMENDMENTS

Amendments to the principal Act

Amends section 3

1 In section 3 (interpretation)—

(a) in the definition of "Minister", delete "responsible for Government Reform" and substitute "to whom responsibilities under this Act are assigned";

(b) in the appropriate places in alphabetical order insert—

" "appropriate limit" has the meaning given in section 13A;

"third party information" means information of a type referred to in section 23, 25 or 26 (personal or commercial information, or information received in confidence) relating to a third party;

"upper limit" has the meaning given in section 13A;".

Amends section 5

2 In section 5 (information statement)—

(a) in subsection (1)(g), after "contact information" insert "of the head of the authority and";

(b) at the end of subsection (4) insert "; and shall ensure the notice is updated as necessary".

Amends section 13

3 In section 13 (request for access), delete subsections (5) to (7), and substitute—

"(4A) Where a request under this section is received by a public authority and any record requested is not held by that authority, the requester shall be notified within two weeks of receipt of the request that it is refused.

(5) But if, to the knowledge of that authority, the record is held by one or more other public authorities, the public authority that received the request shall, within two weeks of receipt of the request notify the requester accordingly, and indicate that he has two weeks to ask for it to be transferred—

(a) to that other public authority; or

(b) in the case of more than one other public authority, to the authority whose functions are, in the opinion of the information

officer of the public authority that first received the request, most closely related to the subject matter of the request.

(6) The information officer of the public authority that first received the request shall inform the requester in writing of the other public authority or authorities when a request is so transferred.

(7) A public authority to whom a request has been transferred shall be deemed to have received the request at the time of the receipt by that authority of the transferred request, and subsections (4) to (6) shall apply in respect of the transferred request."

Amends section 14

4 (1) This paragraph amends section 14 (decision on request).

(2) In subsection (1), delete subsections (a) and (b) and substitute—

"(a) whether to grant the request in whole or in part, subject to payment of applicable fees and charges; or

(b) whether to refuse the request."

(3) After subsection (1) insert—

"(1A) If the decision is to grant the request, the public authority shall also determine—

(a) the applicable charge, if responding to the request is estimated to exceed the appropriate limit; and

(b) the form and manner in which the right of access to the record concerned will be given, and the amount of any fee payable for the provision of access."

(4) In subsection (2), delete "who made representations" and substitute "notified".

(5) In subsection (3), delete the words following "section 17" and substitute—

"(a) as soon as practicable; or

(b) if the record includes third party information to be disclosed, after the expiry of the period specified in section 42 for internal review if no application for review is made by a third party under section 41."

(6) In subsection (4), delete the words "Where an application has been made under section 41 for a review of a decision to grant a request" and substitute "Where an application has been made by a third party under section 41 for a review of a decision to grant a request to disclose records containing the third party's information".

Amends section 20

5 In section 20 (fees in respect of access requests)—

(a) in the heading, after "Fees" insert "and charges";

(b) in subsections (1), (2) and (3), after "fee" in each place insert "or charge".

Amends section 39

6 In section 39 (notice to third parties)—

(a) in subsection (1), delete "head of the public authority" in both places and substitute "information officer";

(b) at the beginning of subsection (2)(a), insert "inform the third party of the request and";

(c) in subsections (1) and (2)(a), delete "information of a type referred to in section 23, 25 or 26" and substitute "third party information";

(d) in subsection (2)(c), delete "fourteen days" and substitute "two weeks";

(e) delete subsection (3), and substitute—

"(3) The public authority shall inform the requester that a notice has been given under this section.";

(f) at the end insert—

"(5) This section also applies, with the necessary modifications, to intended disclosure following internal review by the head of a public authority, and in such a case the head of the authority shall consider any representations made by a third party pursuant to a notice under this section before making a decision under section 43 whether to grant or refuse to grant a request for access to a record referred to in this section."

Amends section 42

7 In section 42 (time limit to apply for internal review), at the end of subsection (3) insert "by an additional two weeks".

Amends section 44

8 At the end of section 44 (referral to Commissioner), insert—

"(4) The Commissioner may, if appropriate, deem an application for internal review which was received directly from a requester or third party to have been referred by the public authority under subsection (1)."

Amends section 45

9 In section 45 (application for review), at the end of subsection (2) insert "by an additional two weeks".

Amends section 59

10 In section 59 (regulations), in subsection (1)(a)—

(a) after "fees" in both places insert "and charges";

(b) after "fee" in both places insert "or charge".

Amends the Schedule

11 In line 11A of the Schedule, in column 2 insert "The Privacy Commissioner".

Amendments to the principal Regulations

Amends regulation 2

12 In regulation 2 (interpretation), delete the definition of "chief officer".

Substitutes regulation 3

13 Delete regulation 3 (right of access) and substitute—

"**Request for access**

3 A request for access shall contain—

(a) the name of the public authority to which the application is being made;

(b) the subject matter of the request and the time frame to which the request refers, including dates and any known documents;

(c) the full name and contact details of the requester, including postal address, email address and telephone numbers."

Deletes regulation 4

14 Delete regulation 4 (provision of access).

Amends regulation 5

15 In regulation 5(1) (reasonable search), delete "an application for access" and substitute "a request".

Amends regulation 6

16 In regulation 6 (receipt and acknowledgement of requests and Schedule 2 forms)—

(a) in the heading, delete "and Schedule 2 forms";

(b) in paragraphs (1), (2) and (3), delete "an application" and "the application" in each place, and substitute "a request" or "the request" (as the case may be);

(c) in paragraph (3), delete "applicant" and substitute "requester";

(d) in paragraph (3), delete "in the form set out in Schedule 2".

Amends regulation 7

17 In regulation 7 (access to records during working hours), delete "chief officer" and substitute "head of the public authority".

Amends regulation 8

18 In regulation 8 (transfer of requests)—

(a) delete paragraph (1);

(b) delete paragraph (2) and substitute—

"(2) Where a requester asks for a request to be transferred to another public authority under section 13(5), the information officer shall within five working days transfer the request and notify the requester, naming the public authority to whom the request has been transferred. "

Amends regulation 9

19 In regulation 9 (unreasonable interference or disruption of other work)—

(a) in paragraphs (1) and (2)(a)(ii), delete "applicant" and substitute "requester";

(b) in paragraph (2), delete "information officer" and substitute "head of the authority";

(c) delete paragraph (2)(b)(iii) and substitute—

"(iii) the time that would be involved in fully processing the request and the impact this would have on other services provided by the public authority.";

(d) in paragraph (3), delete "application" and substitute "request".

Amends regulation 10

20 In regulation 10 (notice to third parties)—

(a) delete paragraph (1) and substitute—

"(1) Where the information officer intends to give a requester access to a record which he believes contains third party information, he shall send the third party written notice of the request in accordance with section 39.";

(b) delete paragraph (2) and substitute—

"(2) If the third party does not respond within two weeks, or the information officer is not satisfied that the communication has reached the third

party, the information officer shall make reasonable efforts to contact the third party and, if unsuccessful, make a record of such efforts.";

(c) after paragraph (3) insert —

"(3A) This regulation also applies, with the necessary modifications, to intended disclosure following the conduct of a review by the head of an authority under section 43."

(d) delete paragraph (4).

Substitutes regulation 11

21 Delete regulation 11 (notifications of decisions to grant access and right of appeal) and substitute—

"**Notifications of decisions to grant access and right to apply for review - third party information**

11 (1) On reaching a decision to grant access or partial access to a record containing third party information following the process set out in regulation 10, the information officer shall as soon as reasonably practicable give written notification of that decision to the requester and the third party.

(2) The notice shall state that—

(a) the requester and the third party have a right to apply for internal review by the public authority under section 41 of the Act; and

(b) access to the record will be given unless the third party applies for review of the decision.

(3) If there is no application for internal review within the period of six weeks specified in section 42, and no extension granted under section 42(3), the record may be released.

(4) Following internal review, on reaching a decision to grant access or partial access to a record containing third party information, the head of the authority shall as soon as reasonably practicable give written notification of that decision to the requester and the third party.

(5) The notice shall state that—

(a) the requester and the third party have a right to apply for review by the Commissioner under section 45 of the Act;

(b) access to the record will be given unless the third party applies for the Commissioner's review of the decision; and

(c) the record will be withheld until the third party's time for appeal to the Commissioner has expired.

(6) If there is no application for review by the Commissioner within the period of six weeks specified in section 45 and no extension granted under section 45(2), the record may be released."

Substitutes regulation 13 and inserts regulation 13A

22 Delete regulation 13 (fees), and insert—

"**Administrative fees**

13 (1) The administrative fees (for photocopying, printing etc records) prescribed in paragraphs (1) to (11) of Head 59 of the Government Fees Regulations 1976 shall apply.

(2) Where access is granted to a record and the record is to be inspected on the premises of the public authority no fee is payable for such inspection.

(3) Before access is given to a record, the information officer shall give the requester an estimate of the amount of fee payable, and the fee shall be paid before access is granted.

(4) Payment may be made by such method as the public authority may specify, and the public authority may specify payment by any legal tender accepted by the Government of Bermuda.

(5) The request shall be deemed to have been withdrawn where the requester fails within six weeks of receipt of the notification of fees—

(a) to respond;

(b) to set an appointment for inspection;

(c) to present himself at the public authority to receive copies of the record.

(6) Where before the expiry of the six week period referred to in paragraph (5) the requester asks for an extension the information officer may, where he thinks appropriate, extend that period for a further six weeks.

(7) During the periods referred to in paragraph (6) the information officer shall remind the requester that payment needs to be made within the time allowed.

Charges for time in excess of appropriate limit

13A (1) The charges prescribed in paragraph (12) of Head 59 of the Government Fees Regulations 1976 shall apply for time in excess of the appropriate limit taken by a public authority to respond to a request.

(2) A public authority that estimates, in accordance with regulation 13B, that the time taken to respond to a request will exceed the appropriate limit—

(a) shall provide the requester with an estimate of the applicable charge within three weeks of receipt of the request; and

(b) shall not continue to process the request until the charge has been paid.

(3) Subject to section 16(2) (procedure where authority assists the requester to amend the request so that charge no longer applicable), the request shall be deemed to have been withdrawn where the requester fails within six weeks of receipt of the estimate to pay the applicable charge.

(4) Payment may be made by such method as the public authority may specify, and the public authority may specify payment by any legal tender accepted by the Government of Bermuda.

(5) Where before the expiry of the six week period referred to in paragraph (3) the requester asks for an extension the information officer may, where he thinks appropriate, extend that period for a further six weeks.

(6) During the periods referred to in paragraph (5) the information officer shall remind the requester that payment needs to be made within the time allowed.

(7) The period between providing a requester with an estimate of the applicable charge and the requester paying the charge shall not be counted for the purpose of determining the authority's compliance with prescribed timelines for responding to the request."

Amends regulation 17

23 In regulation 17 (functions of information officers)—

(a) in paragraphs (b), (c) and (d), delete "applicants" and substitute "requesters";

(b) in paragraphs (c), (f) and (h), delete "applications" in each place and substitute "requests";

(c) in paragraph (j)(iv), delete "under section 11 of the Act" and substitute "to take account of third party rights under the Act".

Amends regulation 18

24 In regulation 18(2) (delegation of functions), delete "chief officer" and substitute "head".

Amends regulation 20

25 In regulation 20 (duty to keep register of applications)—

(a) in the heading, delete "applications" and substitute "requests";

(b) in paragraph (1), delete "applications" and substitute "requests";

(c) in paragraph (1)(a), delete "an application" and substitute "a request";

(d) in paragraph (1)(c), delete "application" in each place and substitute "request";

(e) in paragraph (1)(h), delete “an appeal” and “that appeal” and substitute “a review” and “that review”.

Revokes Schedule 1

26 Schedule 1 (particulars to be set out in the form of an application for access) is revoked.

Revokes Schedule 2

27 Schedule 2 (form of letter of acknowledgement) is revoked.

PUBLIC ACCESS TO INFORMATION AMENDMENT BILL 2024

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Public Access to Information Act 2010 ("the principal Act") and the Public Access to Information Regulations 2014 ("the principal Regulations") to insert limits on the time spent by public authorities responding to requests, to provide for the payment of charges in respect of requests which exceed the "appropriate limit", and to provide that the principal Act does not apply to records relating to the Legal Aid Office. The Bill also seeks to make minor, procedural and consequential amendments, some of which are to bring the Act in line with the Personal Information Protection Act 2016 ("PIPA"), as amended by the Personal Information Protection Amendment Act 2023.

Clause 1 gives the citation, and defines principal Act and principal Regulations.

Clause 2 amends section 2 of the principal Act (the purpose clause). In light of the introduction of the appropriate and upper limits of time that a public authority can spend on responding to a PATI request, paragraph (a) is revised to provide that the purpose is to give the public the right to obtain access to information to the greatest extent possible in accordance with the Act, and that some requests will be subject to a charge.

Clause 3 amends section 4 of the principal Act (application) to provide that the Act does not apply to the records of the Legal Aid Office, as with records of the DPP and the Attorney General's Chambers.

Clause 4 amends section 6 of the principal Act (provision of other information), so that information (other than any personal information not already disclosed) which is disclosed pursuant to an access request will be included in the log of requests kept by each public authority available for inspection by members of the public.

Clause 5 amends section 12 of the principal Act (access to records). For administrative reasons, disclosure of a requester's identity to a person processing any fee or charge for a request is permitted, but the requirement of confidentiality applies to such a person. New subsection (5) clarifies, for the avoidance of doubt, that the obligation of a public authority to give access to records is subject to new section 13A (appropriate limit and upper limit) inserted by clause 6, and to section 16 (refusal of request on administrative grounds).

Clause 6 inserts new section 13A into the principal Act (appropriate limit and upper limit). A public authority is required to estimate, in accordance with new regulation 13B, whether the time needed to respond to a request is likely to exceed the appropriate limit (16 hours) or the upper limit (100 hours). A public authority is not required to grant a request if the estimated time required to respond exceeds the appropriate limit, and this is added to section 16(1)(ba) as a new ground of refusal on administrative grounds (see clause 7). But if an authority does grant such a request, a charge shall be imposed in respect of each hour in excess of the appropriate limit taken to respond to the request (prescribed as $60, see clause 14). A public authority is prohibited from granting a

request if the estimated time required to respond exceeds the upper limit, and shall not continue to process a request once the upper limit has been reached.

Clause 7 amends section 16 of the principal Act (refusal of request on administrative grounds). Two new grounds of refusal are added: in subsection (1) paragraph (ba) where the public authority estimates that the time required to respond to the request exceeds the appropriate limit, and in paragraph (e) where the request is repetitive. New subsection (3) defines "repetitive" as a request seeking the same or similar information that the requester previously requested within a period of three months, whether or not that request was granted in whole or in part. Subsection (1)(c) is amended to include time that would be spent searching for records, as well as the time spent retrieving and examining records, when determining whether a request will cause substantial and unreasonable interference or disruption to the other work of the public authority. Section 16(2) is amended to prevent refusal under paragraph (ba) unless the authority has assisted, or offered to assist, the requester to amend the request so that it would fall below the appropriate limit.

Clause 8 amends section 41 of the principal Act (internal review by authority) to add to the matters that can be reviewed, the decision whether the time needed to respond to a request is likely to exceed the appropriate limit or upper limit.

Clause 9 amends section 47 of the principal Act (review by Commissioner) to provide that the Commissioner's review is to be carried out within a period of four months, or such longer period as may be necessary in exceptional circumstances, but not exceeding another four months. Currently no review period is specified.

Clause 10 amends section 50 of the principal Act (establishment and appointment) to insert a new subsection (6) setting out the circumstances in which the office of Information Commissioner becomes vacant, this mirrors section 26(6) of PIPA.

Clause 11 inserts section 52A into the principal Act to provide for delegation by the Commissioner, in line with section 36 of PIPA.

Clause 12 amends the Schedule to the principal Act, which lists the head of each public authority. For each Government department, this will be the head of the department instead of the Permanent Secretary as currently listed, although the Permanent Secretary will remain the head of the Ministry for the purposes of a request relating to the Ministry itself, not to a department within the Ministry. For statutory bodies and Government funded bodies this will be the chief executive officer, or the chairperson if the CEO is also the information officer.

Clause 13 inserts regulation 13B into the principal Regulations, which lists the matters that may be taken into account by a public authority in estimating the time that will be taken to respond to a request for the purpose of the appropriate limit and upper limit. These include: extracting records; preparing a schedule; applying exemptions; documenting decisions; responding to the requester; and third party processes. But the time that would be spent on the following matters may not be taken into account: determining whether the public authority holds the record; estimating whether responding to the request would exceed the appropriate limit or upper limit and liaising

with the requester regarding options in such a case; and searching for, locating and retrieving the record.

Clause 14 amends Head 59 of the Government Fees Regulations 1976 to provide for a charge of $60 per hour for the time required by a public authority to respond to a request in excess of the appropriate limit.

Clause 15 introduces the Schedule, which makes minor, procedural and consequential amendments to the principal Act and principal Regulations.

Clause 16 provides for commencement of certain provisions on 1 January 2025, to harmonise with the commencement of the remaining provisions of PIPA and the Personal Information Protection Amendment Act 2023. The remaining provisions will be brought into operation by commencement notice. Transitional regulations may make provision relating to requests made under the principal Act before the amendments made by this Act are brought into effect.