



**UPDATE
ON
THE IMPLEMENTATION OF THE ACCESS TO INFORMATION ACT
November 2003**

With the imminent commencement of the ATI Act, this Update seeks to provide details of the more recent preparatory activities being undertaken by the Access to Information Unit.

These activities reflect an understanding by all concerned of the need to focus intensely on, and address, the more immediate challenges associated with putting our own house in order, so to speak, so that as change agents, we might better engage the Jamaican public and more effectively manage the administration of the Act.

It is believed that notwithstanding the expected and current challenges, some progress has nonetheless been made in this regard and that with the combined and sustained efforts of all concerned, the challenge will be appreciably and adequately met. Efforts have been galvanized, structured and coordinated and gears shifted through the activities of the ATI Task Force, the Government Archivist and a very able team of Information/Documentation Managers meeting as the GRIM (Government Records and Information Managers), the Attorney General's Chambers, the Information Division of the OPM, the Opposition (Jamaica Labour Party) and various other Stake Holder/Interest Groups.

Final touches remain to be made by the Unit in the remaining time, yet we continue to strive for quality outcomes and improvement of efficiencies.

1. Amendment of the ATI Act - Phased Implementation:

In May, 2003, a Policy decision was made to the effect that it would be prudent, given the varying levels of preparedness of Ministries, Departments, Agencies etc as assessed from Action Plans completed by them, to phase the commencement of the Act. It was decided, at that time, that the implementation of the Act would be undertaken in four (4) Phases. The principal Act is now being amended to accommodate this decision.

2. Access to Information (Amendment) Bill, 2003:

An Access to Information (Amendment) Bill has been drafted by the Chief Parliamentary Counsel and seeks to amend Sections 4 and 5 of the principal Act. Under Section 4, the Bill provides for the inclusion of a reference to an Order to be made by the Minister under a new Section 5 (1)(a).

The new section 5 (1)(a) proposes to empower the Minister to specify, by Order, the public authorities to which the Act will apply.

The Bill further proposes to amend Section 5 by inserting a new Section 8 which would propose a time period of eighteen (18) months, within and upon the expiration of which, the Minister would have made the Orders necessary to make the Act applicable to all public authorities. Automatic application of the Act would also take place at the end of this period in respect of such public authorities as might have not been so specified by Order.

These amendments were arrived at in collaboration with the Opposition and Stake Holder Groups and were tabled and debated in the Senate on October 17, 24 and 31, 2003 respectively.

3. Schedule for Phased Implementation of the ATI Act - Phases I, II, III & IV:

A Schedule proposing the details of the Phases under which substantive Ministries will fall has been developed and has been approved by the Cabinet. It is the intention that Phase I will comprise the Ministries of Finance and Planning, Local Government, Community Development and Sport, Office of the Prime Minister (OPM), Office of the Cabinet, the National Works Agency (NWA), the Jamaica Information Service (JIS) and the Planning Institute of Jamaica (PIOJ).

Phase II will comprise the Ministries of Agriculture, Commerce, Science & Technology, Education, Youth and Culture, Health, Water and Housing, the Accountant General's Department, the Bank of Jamaica, and the Urban Development Corporation.

Phase III will comprise the Ministries of Foreign Affairs and Foreign Trade, Transportation and Works, Justice, National Security, Labour and Social Security.

Phase IV will comprise the Ministries of Industry and Tourism and Land and Environment.

Departments and Agencies of Ministries and Statutory Companies will be phased in a similar manner, a schedule for which will be developed in due course.

4. Access to Information Regulations:

The Regulations have now been developed and are undergoing the necessary legislative processes necessary for their approval by affirmative resolution.

Substantive provisions and consequent amendments were tabled and debated in the Senate on October 24 and 31, 2003 and the Senate has now approved the proposed Regulations with amendments.

5. Amendment of the Archives Act:

The Archives Act currently prohibits the availability of official records for public inspection until they are in existence for 30 years. The ATI Act provides for the disclosure of exempt official documents 20 years from the date of their creation. Given this conflict, amendments are to be made to the Archives Act to bring the stated provisions in line with the ATI Act. This is being dealt with by the Information Division of the OPM.

It is proposed that until the primary legislative processes are completed, interim measures provided for under the Archives Act be pursued to address the matter. This is to be done through the statutory power of the Archives Committee to shorten, with the approval of the Minister, the period specified above.

6. Repeal and Replacement of the Official Secrets Act:

The deliberative process continues in respect of desired changes to the Official Secrets Act. This is in order to bring it in line with the Government's policy on open government and the overall objectives of the ATI Act. Until this process is completed, it is to be noted that an override of such of the provisions of the Official Secrets Act as are in conflict with the foregoing is contained in the ATI Act itself.

7. Establishment of Appeal Tribunal:

The necessary consultations have now been concluded at the appropriate levels in this regard. It is expected that the Tribunal will be established at an appropriate time.

8. Formation of Access to Information Task Force:

The Task force was formed in May to spearhead the implementation and have oversight of the priority activities deemed for appreciably successful implementation of the Legislation. Its members consist of the information managers representing the seven public authorities selected for the first phase of implementation, the ATI Director, the Government Archivist, Information Technology specialists and other individuals pertinent to the successful implementation.

Terms of Reference include:

- Development of profile of Access Officer **(completed)**;
- The determination of ATI support structures in Government Bodies **(completed)**;
- Audit of and report on current status of records/information management in government bodies **(in progress)**;
- Assessment and addressing of such outstanding matters on Action Plans for Public Authorities under Phase I **(in progress)**;
- Identification and listing of categories of exempt documents relevant to Phase I Ministries **(in progress)**;
- Development of an integrated information management strategy and identification and resolution of general information technology issues affecting cross government integration and ultimate response times in respect of requests for information. This will be done in collaboration with the Central Information Technology Office of the Ministry of Industry representatives from which are also on the Task Force; **(in progress)**
- Paper to electronic records management and electronic records management as supports for the ATI Initiative **(in progress)**;
- Development of ATI Guidelines; **(in final stages of completion)**
- Identification of areas of the Act in need of amendment; **(in progress)**

- Development of Regulations **(completed)**.

The Task Force as currently constituted will meet before the commencement of the Act to further assess the progress of members and teams on the completion of duties under the Action Plan derived from the Terms of Reference above.

9. Action Plan Templates:

These were prepared by the Unit in August 2002 and detailed the resources/activities necessary for implementation. All Ministries and some Departments and Agencies were required to complete these templates and return to the Unit for assessment.

Action Plans were received from all Ministries and some agencies, and formed the basis for:

- the assessment of resource requirements and the consequent level of preparedness of these government bodies for implementation and administration of the Act;
- the development of the Schedule for Phased Implementation for Cabinet's approval.

10. Access to Information Guidelines on the Discharge of Functions by Public Authorities:

Guidelines on the Discharge of Functions by Public Authorities under the Act are in their final stages of completion. These Guidelines will provide technical guidance and recommended basic, effective practices for the administration of the ATI processes (computation of time etc) and form a necessary supplement to the Act and Regulations.

11. Access to Information Training Manual:

A Training Manual on the interpretation and application of the Act has been commissioned and a first draft received. The Manual will enable structured, harmonized and continued in-house training on the Act.

12. Access to Information Road Map - A Directional Guide to Jamaican Government Entities:

The ATI Road Map is a directional guide on location, contact, subject matter and other information relevant to all Government Entities. It was compiled based on current information provided by the Public Enterprises Division of the Ministry of Finance and Planning and it is believed, will further facilitate the compliance by ATI administrators with prescribed timelines, the completion of the Initial Statements on organization and function required under s. 4 of, and the First Schedule to, the ATI Act.

The Road Map will be disseminated on hard copy and Compact Discs to all Ministries (who will be asked to forward the information to their affiliated entities), main Libraries and Academic Institutions, and NGOs.

13. Training Sessions on the Access to Information Regulations & Guidelines:

Instructional sessions are planned on the Regulations and Guidelines with a select group of Principal Officers, Information Managers and other relevant personnel from Phase I Entities.

14. Copyright Law and Access to Information- Instructional Sessions:

Arrangements were made with Intellectual Property specialists for sessions to be conducted on the Copyright law and its relevance to the administration of the ATI Act.

One session has so far been conducted with information managers and other relevant personnel during the third week of September. Additional sessions are being planned.

It should however, be further noted that Copyright and its relevance to ATI will be included as part of a new Access to Information module under the B. Sc. in Administrative Management degree programme currently offered at the University of Technology, Ja.

15. Access to Information Training Programme – January – May, 2003:

The ATI Act- Public Sector Training Programme (Module I) concluded an extensive 14 weeks of training on the legislation held at the MIND campus. Approximately 412 public sector personnel were formally trained on Change

Management, Records/Information Management and the Interpretation and Application of the ATI Act.

Island wide training exercises are planned for officers in rural areas and will be executed at the earliest opportune time.

16. ATI Sensitisation Sessions:

Over the past year, sensitisation sessions, aimed at increasing general awareness of the Act, have been conducted with mid to senior management officers and other staff in Ministries and affiliated entities.

These sessions have been continued with emphasis being placed, as at July, 2003, on Phase 1 Ministries and related entities. Approximately **Four Hundred (400)** persons have been sensitised since that time.

Sessions have been conducted in Kingston & St. Andrew, Mandeville and Montego Bay. Evaluation forms are provided at each session in order to facilitate the assessment of the effectiveness of presenter and content of these sessions.

During the course of the year **One Thousand Three Hundred and Forty Three (1,343)** public servants have been formally sensitised on the interpretation and application of the Access to Information Act and the implications which its introduction will have on the functions of each government entity.

17. ATI/Carter Centre Workshop:

The Carter Centre, in collaboration with the ATI Unit presented a series of workshops at the Courtleigh Hotel on August 26 and 30, 2002, and March 2003, under the continuing theme of best practices for ATI administrators.

The aim was also to review progress charted towards effective implementation of the ATI Act in Jamaica and identify critical areas for action. The events were well supported by the media, members of civil society and records/information management personnel from various government bodies.

18. ATI Unit/Carter Centre - Permanent Secretaries and Information Managers Retreat:

The Unit in collaboration with the Carter Centre and the Cabinet Office hosted a Retreat for all Permanent Secretaries and Information Managers on Friday September 5, 2003. The main objective of the Retreat was to explain the

respective roles the participants will have to assume under the Act, reinforce the nuances of the ATI Act and further highlight the implications of the commencement of the Act.

19. Government of Jamaica/ATI Stake Holder's Dialogue:

A Stake Holders Meeting was held on September 17, 2003 in the Banquet Hall at the Office of the Prime Minister in preparation for the previously announced commencement date of October 1, 2003. The meeting was convened to give an update on the Unit's activities and to share such concerns as were expressed on both sides.

Forty (40) individuals were in attendance including Senator the Hon. Burchell Whiteman, Minister of Information, Dr. the Hon. Carlton Davis O.J., C.D., Cabinet Secretary, Mrs. Charmaine Constantine C.D., Permanent Secretary-OPM, Ms. Olivia "Babsy" Grange, Deputy Leader – Jamaica Labour Party, Dr. Lloyd Barnett, CAFFE.

Dr. Carolyn Gomes, Executive Director, Jamaicans for Justice, Mr. Dunstan Whittingham, General Secretary, Jamaica Higglers and Vendors Association and representatives from Phase I Entities were also in attendance.

A User's Guide to the ATI Act contained on compact disc (cd) and hard copy was disseminated to participants.

20. Media Sensitisation and Simulation Exercise:

On Wednesday October 15, 2003, the Unit conducted a Sensitisation and Simulation Session for the Media at the Ministry of Local Government, Community Development and Sports. Participants were guided through the process of simulated ATI requests. Representatives from all the major media houses were in attendance.

21. Inclusion of ATI on the Caribbean Examination Council's (CXC) Syllabuses:

After extensive consultations with representatives of the Caribbean Examinations Council, aspects of the Access to Information Act have been included in the recently revised drafts of the Office Procedures Syllabus.

Major aspects of the Act are contained in Module III of the revised syllabus under the topic "Records and Information Management". This section of the syllabus will require students to know the legal stipulations governing access to and retention of documents, namely the nature of the right of access, the

limitations on the right of access, infringement of copyright, laws governing defamation and breach of confidence, parliamentary privilege and secrecy provisions.

Other aspects of the Act are also contained in two new CXC syllabuses, namely; Caribbean Secondary Education Certificate (CSEC) Electronic Document and Preparation and Caribbean Advanced Proficiency Examinations (CAPE) Law. The Council has also given the assurance that the relevant aspects of the Act will be included in the syllabuses of new subjects when and as the need arises.

22. Inclusion of ATI in University of Technology's Syllabus:

After discussions with Lecturers at the University of Technology, Ja., it has been agreed that Access to Information will be incorporated in the Records Management component of the B.Sc. in Administrative Management as soon as approval is granted by the University's Curriculum Quality Assurance Committee.

23. Public Relations/Public Education Programme:

- JIS/Civil Society

Collaborations are now ongoing with members of Civil Society and the JIS for the development of educational and promotional materials (pamphlets, posters, ATI call centre/help desk etc).

- Website Development/Web Page

The Unit is in the process of developing an Access to Information Website. The Public Education Manager continues to meet with the developer on content and other matters. In the interim an Access to Information Webpage is being hosted on the JIS Website at www.jis.gov.jm

- Newsletter

The second issue of the quarterly newsletter, "**The Access Quarterly**", has been finalized and will be disseminated during the month of November.

- ATI Displays

Displays have been mounted at key locations within six of the seven Entities scheduled for Commencement under Phase I. This has been done in an effort to facilitate the sensitisation of both public sector employees within the Entities and their customers.

- Public Forum

The group, Jamaicans for Justice, invited the Unit to attend and participate in an open forum which was held on September 10, 2003 at the Stella Maris Church Hall. The Unit made a presentation on the Access to Information Act, after which the panel, which included the Director of the ATI Unit, and representatives of the Carter Centre fielded questions from the attendees. This exercise was very successful.

24. Post Implementation Monitoring Activities:

Dialogue continues with Information Technology experts in Canada in respect of the sourcing of relevant Access to Information software used in that jurisdiction to assist in monitoring compliance with and effective administration of the Act.

25. Association of ATI Administrators:

It is proposed that this Association should be established prior to the commencement of the Act. Its purpose will be to provide a forum through which experiences and information relevant to the administration of the Act may be shared and utilized.

26. Advisory Committee of Stakeholders:

The proposal for the establishment of this body has been met with favour. Its purpose will, inter alia, be the sharing of concerns, issues and plaudits between civil society representatives and representatives from the proposed Association of ATI Administrators.

27. Information Exchange Activities Jamaica/Regional/International :

Plans for Information Exchange activities between Jamaica and Canada/USA have been initiated. Follow-up action will be pursued post Implementation.