

# CODE

OF PRACTICE ON RECORDS &  
INFORMATION MANAGEMENT

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**GOVERNMENT OF VANUATU**



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# CONTENT

	<b>Foreword</b>	<b>1</b>
	<b>Introduction</b>	<b>3</b>
<b>1</b>	<b>Aim</b>	
<b>2</b>	<b>Scope</b>	
	<b>Keeping Records</b>	
<b>3</b>	<b>Creation of Records</b>	
<b>4</b>	<b>Filing Systems</b>	<b>4</b>
<b>5</b>	<b>Storage &amp; Maintenance of Records</b>	
<b>6</b>	<b>Security &amp; Access</b>	
<b>7</b>	<b>Management of Records</b>	<b>5</b>
<b>8</b>	<b>Monitoring &amp; Evaluation</b>	
<b>9</b>	<b>Records Management Training</b>	<b>6</b>
	<b>Disposal, Retention &amp; Transfer of Records to National Archives</b>	<b>7</b>
<b>10</b>	<b>Disposal of Records</b>	
	<i>General principal</i>	
	<i>Public Archives not to be Destroyed or Disposed if Without the Authority of the Archivist</i>	
	<i>Destruction of Routine Public Archives</i>	
	<i>Documenting the Destruction of Records</i>	<b>8</b>
<b>11</b>	<b>Transfer of Records to National Archives of Vanuatu</b>	<b>9</b>
	<i>Deposit of Public Archives to the National Archives of Vanuatu</i>	
	<i>Deposit of Public Archives of less than Fifteen Years of Age</i>	<b>10</b>
	<i>Public Records &amp; Archives not in the National Archives</i>	
	<i>Return of Public Archives to Government Office</i>	
	<i>Public Archives &amp; Records to be Surrendered on Demand</i>	
	<i>Publication of Public Archives</i>	<b>11</b>
	<i>Copyright</i>	
	<i>Access after Transfer of Public Records</i>	
	<b>Annex A Glossary</b>	<b>12</b>

## FOREWORD

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### INTRODUCTION

The Code of Practice (“the Code”) which follows fulfils the function of the Right to Information Unit as set out in section 72 of the Right to Information Act No. 13 of 2016.

The Right to Information Act No. 13 of 2016 enables the public to access information held by Vanuatu public authorities. This regime requires government agencies, relevant private entities and private entities to either make available information requested by an applicant or to explain why the request for information is not granted.

Section 72 of the Right to Information Act No. 13 of 2016 states that the RTI Unit must, after consulting all relevant and interested parties, and on the recommendation of the Archivist appointed under section 5 of the Archives Act 13 of 1992, issue within 12 months of the commencement of the RTI Act, a Code of Practice (the Code) relating to the creation, keeping, management and disposal of records and the transfer of records to the National Archives.

This Code is prepared by the RTI Unit with consultation from the Archivist of the National Archives, the National Records and Information Management Development Committee on the content of the Code. The Code of Practice (“the Code”) fulfils the functions of the Right to Information Unit set out in section 69 of the Right to Information Act No 13 of 2016.

### IMPORTANCE OF RECORDS MANAGEMENT

Records management ensures successful achievement of the Peoples Plan <sup>1</sup>Social pillar 6 to create strong and effective institutions and guarantee the public's right to information. Citizen's access to reliable information is a core component of the National Sustainable Development Plan and Sustainable Development Goals (SDG's).

Benefits of Records Management include more effective management of your current records (both paper and electronic); a reduced / eliminated level of record-keeping redundancies; reduced costs for records storage equipment and supplies; and increased usable office space through the elimination of unnecessary file storage. In addition, Records Management provides institutional accountability and timely access to information.

The Code is a supplement to the provisions in the Right to Information Act and its adoption will help government agencies and relevant private entities comply with their duties under the Right to Information Act. Therefore, all government agencies and relevant private entities are strongly encouraged to pay heed to the guidance in the Code.

Government agencies and relevant private entities should note that if they fail to comply with the Code, they may also fail to comply with Right to Information Act.

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<sup>1</sup>Vanuatu 2030: the people's plan: National Sustainable Development Plan 2016 to 2030 / Department of Strategic Policy, Planning and Aid Coordination, 2016.

## FOREWORD



### ROLE OF THE RIGHT TO INFORMATION UNIT

- The Right to Information (RTI) Unit has the following functions:
- To provide secretariat support to the Right to Information Steering Committee;
- To serve as a central resource for Right to Information officers;
- To develop and monitor the National Implementation Plan;
- To train Right to Information Officers and officers;
- To engage with civil society to promote the use and understanding of the Act by the public;
- To develop educational materials for officers and the general public;
- To develop and execute public education activities suited to Vanuatu socio-economic context;
- To develop a National Code of Practice on information and records management;
- To establish and refine reporting and monitoring mechanisms between itself, Agencies or Entities and the Office of the Information Commissioner.

### ROLE OF THE ARCHIVIST OF THE NATIONAL ARCHIVES

Records are crucial to organisations, particularly in this information age. Reliable information depends on good record keeping. The Archivist shall be charged with care, custody, control and administration of the public archives in the National Archives and the public access to the National Archives and with performance of any other duties prescribed by the Archives Act.

The Archivist may from time to time delegate in writing any of his powers under this Act except the power of authorizing the destruction or disposal of public archives, to any public servant.

Subject to any general or special directions given or conditions attached by the Archivist, the public servant to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by a delegation:

Every delegation under this section shall, until it is revoked, continue in force according to its tenor, notwithstanding the fact that the Archivist by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

# CODE OF PRACTICE



**Right to Information Act No. 13 of 2016, section 72**  
**Guidance to relevant authorities on**  
**(a) The creation, keeping, management and disposal of records; and**  
**(b) The transfer of records to the National Archives.**

The Right to Information Unit, having consulted all relevant interested parties, and on the recommendation of the Archivist appointed under section 5 of the Archives Act [CAP 216], issues the following Code of Practice pursuant to section 72 of the Right to Information Act No. 13 of 2016.

## INTRODUCTION

### 1. Aim

The aims of the Code are:

- To set out the practices which government agencies<sup>2</sup> and relevant private entities should follow in relation to the creation, keeping, management and destruction of their records; and
- To describe the arrangements which government agencies and relevant private entities should follow in reviewing public records and transferring them to the National Archives of Vanuatu.

### 2. Scope of the Code

The scope of the Code applies to all records irrespective of the technology used to create and store them or the type of information they contain. It includes, therefore, not only paper file series and digital records management systems but also business and information systems and the contents of websites. The Code's focus is on records and the systems that contain them, but the principles and recommended practice can be applied also to other information held by a government agency or relevant private entity.

## KEEPING RECORDS

### 3. Creation of Records

Government agencies and relevant private entities must have in place a process for documenting its activities in respect of records management. This should take into account the legislative and regulatory environment in which the government agency or relevant private entity operates.

Records of operational activities should be complete and accurate in order to allow employees and their successors to undertake appropriate actions in the context of their responsibilities, to facilitate an audit of the agency or entity by anyone so authorized, to protect legal and other rights of the government agency or relevant private entity, its staff and any other affected by its actions and provide authentication of the records so that evidence derived from them is shown to be credible and authoritative.

Records created by the government agency or relevant private entity should be arranged in a record-keeping system that will enable the organization to obtain maximum benefit from the quick and easy retrieval of information.

<sup>2</sup>Government agency is defined in the RTI Act as an agency which includes the State, the Government, a Constitutional entity and any other Government agency that is prescribed by the Minister under subsection 2(4) of the RTI Act.

## 4. FILING SYSTEMS

4.1 A record keeping system is the tool to manage records. It is a manual or automated information system having the necessary functionality that enables it to carry out and support the various records management processes such as collection, organization and classification of records to facilitate their retrieval, distribution, use, disposal or preservation. When designing and implementing a record keeping system, an organization should ensure that it can meet the organization's records management policy, requirements, practices, guidelines and procedures.

4.2 To serve its purpose, a record keeping system should have the following characteristics:

- **Reliability:** It should be capable of continuous and regular operation in accordance with established guidelines and procedures;
- **Integrity:** Access and security measures should be in place to prevent unauthorized access, destruction, alteration or removal of records;
- **Compliance:** It should be managed to comply with all requirements arising from the legal and regulatory environment and business, and expectations in which the organization operates;
- **Comprehensiveness:** It should be able to manage records in any formats captured from different activities and transactions of the organization; and
- **Systematic:** It should be able to capture, maintain and manage records systematically.

4.3 In light of the increasing use of electronic exchanges for official transactions, an organization may pursue the development of an electronic document and records management system (EDRMS) to assist it in managing both non-electronic and electronic records in an integrated and consistent manner.

## 5. STORAGE & MAINTENANCE OF RECORDS

5.1 The code says that a government agency or relevant private entity should know what records it holds and where they are. It should ensure that records remain usable for as long as they are required.

5.2 A government agency or relevant private entity should decide the format for the storage of its records. It is likely to hold records and information in a number of different electronic and manual systems. The government agencies and relevant private entity should ensure that appropriate storage and preservation arrangements are in place, especially if there are any specific legal requirements for particular records.

5.3 Special care and monitoring is recommended in the case of vulnerable or sensitive material and paper files. A government agency or relevant private entity should consider keeping back-up copies of records in digital systems in a secure separate location.

5.4 All information held by a government agency or relevant private entity is treated the same for the purposes of RTI, regardless of whether it is stored in a different location. It is important for a government agency and relevant private entity to apply its records management policies consistently, even though it may store its records across more than one site. This minimizes any issues when dealing with an information request.

## 6. SECURITY & ACCESS

6.1 A government agency and relevant private entity should ensure that its arrangements for storage, handling and transmission of records reflect accepted standards and good practice in information security. A government agency or relevant private entity should already have an information security policy in place in order to comply with the requirements of the Code of Practice.

- 6.2 A government agency should restrict internal access where necessary, especially with personal data or confidential information. There should be an audit trail of access to and transfer of records. The government agency or relevant private entity should put in place a requirement for prior authorization for the transmission of records, especially outside its own premises.

## 7. MANAGEMENT OF RECORDS

- 7.1 All government agencies and relevant private entities note the National Records and Information Management Plan and their responsibilities as outlined in the National Policy.
- 7.2 The policy should be endorsed by senior management, for example at board level, and should be readily available to staff at all levels.
- 7.3 The policy provides a mandate for the records and information management function and a framework for supporting standards, procedures and guidelines. The precise contents will depend on the particular needs and culture of the authority but it should as a minimum:
- a) Set out the government agency and relevant private entity's commitment to create, keep and manage records which document its principal activities;
  - b) Outline the role of records management and its relationship to the government agency and relevant private entity's overall business strategy;
  - c) Identify and make appropriate connections to related policies, such as those dealing with email, information security and data protection;
  - d) Define roles and responsibilities, including the responsibility of individuals to document their work in the government agency or relevant private entity's records to the extent that, and in the way that,
  - e) the government agency or relevant private entity has decided their work should be documented, and to use those records appropriately;
  - f) Indicate how compliance with the policy and the supporting standards, procedures and guidelines will be monitored.
- 7.4 The policy should be kept up-to-date so that it reflects the current needs of the government agency or relevant private entity. One way of ensuring this is to review it at agreed intervals, for example every three or five years, and after major organisational or technological changes, in order to assess whether it needs amendment.
- 7.5 The government agency or relevant private entity should consider publishing the policy so that members of the public can see the basis on which it manages its records.

## 8. MONITORING & EVALUATION

- 8.1 A government agency or relevant private entity should undertake compliance monitoring regularly to ensure that the records management processes and controls are being implemented according to the organizational policies and requirements. This is to ensure management programme is functioning effectively.
- 8.2 A government agency or relevant private entity should also consider the arrangements to deal with cases involving loss or unauthorized destruction of records. It should properly follow up any loss or unauthorized destruction of records, including ascertaining the facts and identifying the circumstances leading to the loss or unauthorized destruction, taking steps to prevent recurrence and taking disciplinary action or administrative action as appropriate.
- 8.3 Monitoring should be undertaken on a regular basis and the results should be reported to the senior management and also included in the RTI Officers report to the RTI Unit on a monthly basis.



### Good Practices

A government agency or relevant private entity should conduct regular review of its records management programme and practices to:

- Assess its compliance with key records management functions and requirements.
- Identify areas requiring improvement with regard to desirable best practices and formulation of plans to implement improvement measures.

The review and recommended improvements should be endorsed by the management.

## 9. RECORDS MANAGEMENT TRAINING

- 9.1** A government or relevant private entity should establish an ongoing training programme for its staff to provide them with adequate knowledge and skills on records management requirements and practices, particularly on creating records during their work, capturing those records into and managing them in designated record keeping systems.
- 9.2** For records management staff, including records managers, registry supervisors and registry staff, specific records management training should be provided to them on records management concepts, principles and practices, covering such topics as records classification, records scheduling and disposal, and records capturing.
- 9.3** Records management training should be provided to staff at the appropriate timing to facilitate their work. For example, records management training should form part of the induction programme for new staff. Refresher training should be arranged for serving staff on regular basis. Seminars on topical records management issues (e.g. promulgation of new guidelines) should be arranged to keep staff abreast of new development of records management in the organization.

### Good Practices

A government agency or relevant private entity should arrange records management training for its staff at different levels on the following important topics:

- Records management policy and requirements of the government agency or relevant private entity.
- Records management roles and responsibilities.
- Filing practices.
- Records classification and coding.
- Records scheduling and disposal.
- Electronic records management (if appropriate).

## DISPOSAL, RETENTION & TRANSFER OF RECORDS TO NATIONAL ARCHIVES

### 10. DISPOSAL OF RECORDS

**Government agencies and relevant private entities should define how long they need to keep particular records, should dispose of them when they are no longer needed and should be able to explain why records are no longer held.**

- 10.1** For the purpose of this Code, disposal means the decision as to whether the record should be destroyed or transferred to the National Archives.

#### General Principle

- 10.2** As a general principle, records should be kept for as long as they are needed by the government agency or relevant private entity: for reference or accountability purposes, to comply with regulatory requirements or to protect legal and other rights and interests. Destruction at the end of this period ensures that office and server space are not used and costs are not incurred in maintaining records that are no longer required.
- 10.3** Records should not be kept after they have ceased to be of use to the government agency or relevant private entity unless:
- a) They are known to be the subject of litigation or a request for information. If so, destruction should be delayed until the litigation is complete or, in the case of a request for information, all relevant complaint and appeal provisions have been exhausted;
  - b) They have long – term value for historical or other research and have been or should be selected for permanent preservation. (Note that records containing personal information can be kept indefinitely for historical research purposes because they thereby become exempt under the RTI Act)
  - c) They contain or relate to information recently released in response to a request under the RTI Act. This may indicate historical value and destruction should be delayed while this is re-assessed.

#### Public Archives not to be Destroyed or Disposed of Without the Authority of the Archivist

- 10.4** No person shall destroy or otherwise dispose of, or authorize the destruction or other disposal of, any public archives of any kind whatsoever that are in his possession or under his control, except with the consent of Archivist.
- 10.5** Before authorizing the destruction of any public archives or any class of public archives, the Archivist may, if he thinks fit, consult with any person who the Archivist considers qualified to advise him as to the value of any such public archives for permanent preservation.

#### Destruction of Routine Public Archives

- 10.6** The Archivist may authorize the immediate destruction, or the destruction after the expiration of such specified time as may be agreed upon between the Archivist and the head of the Government office concerned, of any specified classes of public archives that -
- a) By reason of their number, kind or routine nature do not in his opinion possess any enduring value for preservation in the National Archives as public archives; and
  - b) Are not required for reference purposes in any Government office after action on them is completed, or after the expiration of such period of years from the date on which action on them is completed as may be agreed upon between the Archivist and the head of the Government concerned.

## Documenting the Destruction of Records

- 10.7** Details of destruction of records should be kept, either as part of the audit trail metadata or separately. Ideally, some evidence should be kept indefinitely because the previous existence of records may be relevant information.
- 10.8** At the very least it should be possible to provide evidence that as part of routine records management processes destruction of a specified type of record of a specified age range took place in accordance with a specified provision of the disposal schedule.

## 11. TRANSFER OF RECORDS TO NATIONAL ARCHIVES OF VANUATU

*Public archives of Vanuatu which are considered worth permanent preservation shall be deposited and preserved in the National Archives.*

### Deposit of Public Archives to the National Archives of Vanuatu

**11.1** All public archives of the age of fifteen years or over (other than those which are under any Act are required to be held in the custody of a specified person or Government office) which in the opinion of the Archivist are of sufficient value to warrant their preservation as -

- a) Evidence of the organisation, functions and transactions of the Government office in which they were originally made or received; or
- b) Evidence of public or private personal or property rights or civic rights; or
- c) Containing historical or general information.

Shall be transferred to the custody of the Archivist and be deposited in the National Archives.

**11.2** Notwithstanding subsection 11.1;

- a) Where the Archivist is satisfied that the deposit in the National Archives of any particular public archives of the age fifteen years or over would unduly prejudice the effective administration of any Government office, he or she shall defer the deposit of the public archives for such period as may be agreed upon between the Archivist and the head of the Government office affected;
- b) Where the head of the Government office having the possession or control of any public archives satisfies the Archivist that by reason of its secret or confidential nature would not be in the public interest immediately to deposit that archives in the National Archives, the Archivist shall from time to time defer the deposit of that public archives for such period as may be agreed upon between the head of the Government office and the Archivist;
- c) Where the Minister in charge of any Government office certified that in his opinion any specified archives or specified class of public archives in the custody or control of the Government office contains information that release of which may adversely affect the security of Vanuatu or relations between the Government of Vanuatu and the government of any other country, the deposit in the National Archives of that public archives or of public archives of that class shall be deferred for such period or shall be made subject to such conditions as to access or otherwise as that Minister from time to time directs;
- d) Where the deposit of any public archives in the National Archives is deferred under paragraphs (a), (b) or (c), the Archivist may impose any conditions he thinks fit to ensure the safe preservation of any such archives during the time they are kept in a Government office.

**11.3** Any public archives deposited may be deposited unconditionally or, if the head of the Government office making the deposit so requires, shall be deposited subject to such conditions as to access and otherwise as may be agreed upon from time to time by the Archivist and the head of the Government office.

**11.4** Where the head of any Government office and the Archivist are unable to agree as to whether or not the deposit of any public archives in the National Archives should be deferred or as to the period for which that deposit should be deferred or as the conditions as to access and otherwise on which any public archives should be deposited, that question shall be determined by the Minister acting in accordance with the advice of the Council of Ministers, and his decision shall be final.

### **Deposit of Public Archives of less than Fifteen Years of Age**

- 11.5 The Archivist may allow the deposit in the National Archives of public archives of less than fifteen years of age if he considers that they are of sufficient value for deposit.
- 11.6 Any deposit of public archives may be subject to any special conditions imposed by the head of the Government office making the deposit.

### **Public Records & Archives not in the National Archives**

- 11.7 The Archivist may from time to time inspect, any public records or public archives that are for the time being in the possession or under the control of any Government office and give instructions as to their safe preservation and such advice as to their efficient and economical administration and management as he considers necessary.

### **Return of Public Archives to Government Office**

- 11.8 Where the head of the Government office by which any public archives was deposited in the National Archives or head of the successor of that Government office, satisfied the Archivist that the public archives is required for use in that Government office, the Archivist shall return the public archives to the custody of that Government office for such period as may be agreed upon between the Archivist and head of the Government office, and subject to such conditions as the Archivist may impose to ensure the safe custody and preservation of that public archives during the time it is kept in the Government office.

### **Public Archives & Records to be Surrendered on Demand**

- 11.9 Where any public archives or public record (being an archives or a record that is the property of the Government) is in the custody or possession of any person, other than a Government office, a public officer or other person authorized to have such custody or possession in his official capacity, and the original of that public archives or public record is not in the possession of any Government office or deposited in the National Archives, that person shall, on demand in writing by the Archivist, deposit that public archives or public record in the National Archives.
- 11.10 Subject to -

- a) Any writing law providing for any information or records to be kept secret;
- b) Any conditions under which any archives are deposited;
- c) Any orders or regulations made under the Archives Act.

All archives deposited in the National Archives shall be available for public reference.  
Provided that;

- a) The Archivist may, for any good cause, withhold access to any specified class of public archives in this custody subject to the right of the person so denied to appeal to the Minister, who decision shall thereon be final;
- b) Any public archives deposited in the National Archives by any court and containing any information relating to the trial or punishment of any particular person may be inspected only by a person authorize in writing by the Chief Justice or by any other person authorized by the Chief Justice in that behalf.

## Publication of Public Archives

- 11.11 On the recommendation of the Archivist, the Minister responsible for Archives may authorize the publication of any public archives deposited in the National Archives and available for public reference which he considered to be of sufficient interest to warrant their publication.

## Copyright

- 11.12 Nothing in this Code shall derogate from any provision of the law relating to copyright in relation to any contained in any public archives deposited in the National Archives under the provisions of the Archives Act.
- 11.13 Where any person publishes any work containing any passage from any public archives deposited in the National Archives, he or she shall in that publication acknowledge the source from which that passage is taken.

## Access after Transfer of Public Records

- 11.14 Subject to -

- a) Any written law providing for any information or records to be kept secret;
- b) Any conditions under which any archives are deposited;
- c) Any orders or regulations made under the Archives Act.

All archives deposited in the National Archives shall be available for public reference.  
Provided that -

- a) The Archivist may, for any good cause, withhold access to any specified class of public archives in this custody subject to the right of the person so denied access to appeal to the Minister, whose decision thereon shall be final;
  - b) Any public archives deposited in the National Archives by any court and containing any information relating to the trial or punishment of any particular person may be inspected only by a person authorized in writing by the Chief Justice or by any other person authorized by the Chief Justice in that behalf.
- 11.15 None of the actions described in this Code affects the statutory rights of access established under the RTI Act. Request for exempt information in public records transferred to the National Archives will be dealt with on a case by case basis in accordance with the provision of the RTI Act.
- 11.16 When an exemption has ceased to apply under section 51 of the RTI Act the records will become automatically available for members of the public at the date specified according to section 51 of the RTI Act.
- 11.17 In other cases, if the government agency or relevant private entity concerned wishes to extend the period during which the information is to be withheld, it should submit a further schedule explaining the sensitivity of this information. This is to be done according to section 51 of the RTI Act.

## ANNEX A GLOSSARY

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**Archivist** - A person professionally responsible for the management of archival records.

**Custody** - The responsibility for the care and management of archives, based upon their physical possession. Custody does not always include legal ownership, or the right to control access to records.

**Digital records** - Records created, communicated and maintained by means of electronic or computer equipment.

**Disposal** – the decision as to whether the record should be destroyed, transferred to an archives service for permanent preservation or presented and the putting into effect of that decision.

**Disposal schedules** – schedules that identify types of records and specify for how long they will be kept before they are destroyed, designated for permanent preservation or subjected to a further review.

**Document** – means any record set out in written or printed paper that bears the original, official or legal form of something and can be used as evidence or information.

**Government agency** –includes;

**a)**The state; and, **b)**The Government; and, **c)**A constitutional entity; and, **d)**Any other Government agency that is prescribed by the Minister under subsection 2(4) of the RTI Act.

**Information** –has the same meaning as record.

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**Keeping records** –in the context of this Code, keeping records includes recording the government agency or relevant private entity's activities by creating documents and other types of records as well as handling material received.

**Metadata** –information about the context within which records were created, their structure and how they have been managed over time. Metadata can refer to records within digital systems. It can also refer to systems such as paper files that are controlled either from a digital system or by a register or card index, for example the title and location.

**Record** –means information held in any form or medium by a Government agency, relevant private entity or private entity, whether or not it was created by any of them or came into existence before the commencement of the RTI Act, and includes:

**a)**A record in writing; or, **b)**A document, manuscript and file; or, **c)**A film (including microfilm), negative, microfiche and facsimile copy of a document; or, **d)**A map, plan, graph or drawing; or, **e)**A photograph; or **f)**A disc, tape, sound track or other device in which sounds or other data are embodied, whether electronically or otherwise, so as to be capable (with or without the aid of some other equipment) of being reproduced; or, **g)**An email, memo, opinion, advice, press releases, circular, order, logbook, contract, report, samples and models.

**Record-keeping systems** - Information systems that are specifically designed to capture, protect, store and manage data or documents as reliable records for as long as they are needed to satisfy business, legal, fiscal, and historical requirements.

## ANNEX A GLOSSARY

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**Relevant private entity** –means an entity;

**a)**That is owned, controlled or substantially financed directly or indirectly by funds provided by the Government, but only to the extent of that financing; or, **b)**That carried out statutory or public services or functions, whether financed directly or indirectly by funds provided by the Government or other sources but only to the extent of the statutory or public services or functions; or, **c)**Which the Minister by order designates as relevant private entity

**Right to information** –means the right to information that is accessible under the RTI Act and which is held by or under control of a Government agency, relevant private entity or private entity, and includes, but is not limited to the right to:

**a)**Take notes, extracts or certified copies of records or information; or, **b)**Inspect work, documents or records; or **c)**Take certified samples of material; or, **d)**Obtain information in the form of compact discs, diskettes, floppy discs, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.



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