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MONDAY 9TH DECEMBER, 2024

THE OFFICIAL GAZETTE 9TH DECEMBER, 2024
LEGAL SUPPLEMENT — A

GUYANA

ACT No. 16 of 2024
THE OPEN DATA ACT 2024

I assent.

Mohamed Irfaan Ali,
President.

9th December, 2024

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AN ACT to provide for the use and administration of public data; to provide for public data to be made available in an open format and under an open licence; to facilitate transparency, effective governance and innovation in the use and administration of public data and for connected matters.

A.D.2024 Enacted by the Parliament of Guyana:-

PART I
PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Open Data Act 2024 and shall come into operation on a date that the Minister may, by order, appoint.

Interpretation.

2. In this Act-

No. 21 of 2011

"Commissioner of Information" means the Commissioner of Information appointed under section 5 of the Access to Information Act;

"data" means recorded information, regardless of form or the media on which the data is recorded;

"data asset" means a collection of data elements or data sets that may be grouped together;

"Data Officer" means a person designated as a Data Officer under section 5(1);

Cap. 90:16

"Guyana National Bureau of Standards" means the Guyana National Bureau of Standards established under section 3 of the Guyana National Bureau of Standards Act;

"information" means any material in any form, including records, documents, memos, electronic mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any law;

"machine-readable" means a format in which information or data can be easily processed by a computer without human intervention while ensuring no semantic meaning is lost;

"metadata" means structural or descriptive information about data such as content, format, source, rights, accuracy, provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, method of collection and other descriptions;

"Minister" means the Minister with responsibility for information;

"non-public data asset" means a data asset that may not be made available to the public for reasons of privacy, security or confidentiality and includes-

(a) data provided by contractors that is protected by contract, licence, patent, trademark, copyright, confidentiality, regulation or other restriction;

(b) data that would cause damage or be prejudicial to national security if made publicly available;

(c) personal data or information pertaining to an individual; and

(d) data which is exempt or otherwise prohibited from being disclosed to the public under the Access to Information Act, the Data Protection Act or any other law;

No. 21 of 2011
No. 18 of 2023

"Open Data Plan" means an Open Data Plan developed under section 8;

"public authority" means any ministry, department, division, agency, board, commission, local democratic organ or other body of the Government and includes an entity or body established by law or by arrangement of the Government or a Minister for a non-commercial public service purpose;

"public data asset" means a data asset comprised of data that is-

(a) created, collected, under the control or direction of, or maintained by a public authority; and

(b) not restricted by any law from being accessed by or released to the public.

Application.

3. (1) Subject to subsections (2) and (3), this Act applies to all public authorities.

(2) Notwithstanding subsection (1)-

(a) this Act does not apply to the President;

(b) this Act does not apply to a Commission of Inquiry issued by the President, or information obtained or created in the course of an investigation, examination or audit conducted by or under the authority of the Auditor General, until the investigation or audit and all related proceedings, if any, are finally concluded;

(c) in relation to its, his or her judicial functions, a court or the holder of a judicial office or other office pertaining to a court in his or her capacity as the holder of that office, shall not be regarded as a public authority for the purposes of this Act;

(d) a registry or other office of court administration, and the staff of such a registry or other office of court administration in their capacity as members of that staff in relation to those matters which relate to court administration, shall be regarded as part of a public authority for the purposes of this Act;

(e) the disciplined forces in relation to their strategic or operational activities shall not be regarded as public authorities for the purposes of this Act.

(3) The Minister may, by order subject to negative resolution of the National Assembly, exempt a public authority from the application of this Act.

Objects of the Act.

4. The objects of this Act are to-

(a) enhance transparency and accountability in the dissemination and use of public data while maintaining the confidentiality and privacy of non-public data;

(b) make public data open and accessible to the public;

(c) optimise the use and management of public data in accordance with international standards and best practices; and

(d) improve public services and promote private sector innovation and collaboration.

PART II
ADMINISTRATION OF PUBLIC DATA

Data Officer.

5. (1) A public authority may designate a person as a Data Officer for the purpose of carrying out the responsibilities of that public authority under this Act.

(2) The Data Officer of each public authority, or other appropriate officer identified by that public authority for that purpose, shall be responsible for-

(a) data asset management, format standardisation, sharing of data assets, and publication of data assets for the agency;

(b) the compilation and publication of the data register of the public authority;

(c) ensuring that the public data conforms with open data best practices;

(d) engaging the employees of the public authority, the public and contractors in the use of public data assets and encouraging collaborative approaches to improve data use;

(e) reviewing the public authority's information technology infrastructure and the impact of the infrastructure on making data assets accessible to reduce barriers that inhibit data asset accessibility;

(f) identifying points of contact for roles and responsibilities related to public data use and implementation; and

(g) liaising with the Commissioner of Information on behalf of the public authority.

Data register.

6. (1) Every public authority shall, as far as is reasonably practicable, maintain a register in electronic form of all data assets created, collected, under the control or direction of, or maintained by that public authority.

(2) The register under subsection (1) shall include-

(a) data assets used in a public authority's information systems generated by applications, devices, networks, facilities, and equipment, categorised by source type;

(b) data assets shared or maintained among public authorities; and

(c) a classification of each data asset as either-

(i) a public data asset; or

(ii) a non-public data asset.

(3) Non-public data assets shall be maintained in a classified section of the register and subject to restricted access.

(4) The Minister shall, in consultation with the Commissioner of Information and Guyana National Bureau of Standards, prescribe standards for the maintenance of the register, including-

(a) a requirement that the register includes a compilation of metadata about agency data assets; and

(b) criteria that each public authority shall use in determining whether to make a particular data asset publicly available in a manner that takes into account-

(i) the expectation of confidentiality associated with an individual data asset;

(ii) security considerations, including the risk that information in an individual data asset in isolation does not pose a security risk but when combined with other available information may pose such a risk;

(iii) the cost and benefits to the public of converting the data into a manner that could be understood and used by the public;

(iv) the expectation that all data assets that would otherwise be made available under the Access to Information Act be disclosed; and

No. 21 of 2011

(v) any other considerations that the Minister considers relevant.

(5) A register under this section shall be compiled no later than one year after the commencement of this Act and new data assets shall be added to the register no later than three months after the date on which the data asset is created or identified.

Duty to provide data to Commissioner of Information.

7. (1) Upon the request of the Commissioner of Information, a public authority shall provide the Commissioner of Information with-

(a) access to the public authority's data register;

(b) information relating to its public data assets; and

(c) such other information as the Commissioner of Information may, from time to time, require for the purpose of enabling him or her to facilitate the publication of the public data assets in an open format and under an open licence.

(2) The data or information provided under subsection (1) shall be in such format as may be specified by the Commissioner of Information.

Open Data Plan.

8. Every public authority shall, in consultation with the Minister, develop an Open Data Plan that-

(a) requires the public authority to develop processes and procedures that allow the agency to collaborate with non-Government entities, researchers, businesses, and private citizens for the purpose of understanding how data users value and use public data assets;

(b) identifies and implements methods for collecting and analysing digital information on data asset usage by users within and outside of the public authority;

(c) requires the public authority to designate a point of contact within the public authority to assist the public and to respond to quality issues, usability, recommendations for improvements, and complaints about adherence to open data requirements;

(d) develops and implements a process to evaluate and improve the timeliness, completeness, accuracy, usefulness and availability of public data assets;

(e) requires the public authority to update the plan with such frequency as may be determined by the Minister;

(f) includes requirements for meeting the goals of the public authority Open Data Plan including technology, training for employees, and implementing standards that allow for the acquisition of innovative solutions from both the public and private sector; and

(g) implements measures to prevent the unauthorised dissemination and disclosure of non-public data assets and safeguard against threats to cyber security.

PART III

PUBLICATION AND USE OF DATA

Duty to publish data in open format.

9. A public data asset maintained in the data register of a public authority shall be published in an open format that is-

(a) machine-readable;

(b) unencumbered by restrictions that would impede its use or reuse;

(c) consistent with best practices and standards as approved by the Guyana National Bureau of Standards; and

(d) accessible to the public on an electronic platform,

to the extent that the publication is not prohibited by any law.

Duty to publish data under open licence.

10. A public data asset maintained in the data register of a public authority shall be published under an open licence-

(a) at no cost to the public; and

(b) with no restrictions on copying, publishing, distributing, transmitting, citing, or adapting,

to the extent that the publication is not prohibited by any law.

Prohibition on publication of non-public data.

11. (1) A public authority shall not publish any non-public data asset unless and to the extent so authorized by any law.

(2) The Minister may, by order subject to negative resolution of the National Assembly, declare a data asset or a category of data assets as a non-public data asset or assets for the purposes of this Act.

Public engagement.

12. Every public authority shall, in the manner and to the extent provided under its Open Data Plan, engage the public in the use of public data assets and encourage collaboration by-

(a) publishing information on public data asset usage at regular intervals not exceeding one year;

(b) receiving public input on the priorities for the analysis and disclosure of data assets to be published;

(c) assisting civil society groups and members of the public working to expand the use of public data assets; and

(d) hosting and promoting initiatives designed to create additional value from public data assets.

Private sector collaboration.

13. (1) The Commissioner of Information may, with the approval of the Minister, conclude agreements and memoranda of understanding with private sector entities for the purpose of collecting private sector data assets and making them available to the public in an open format.

(2) Private sector data assets made available to the public under subsection (1) may be published under-

(a) an open licence, with no restrictions on copying, publishing, distributing, transmitting, citing, or adapting the data assets; or

(b) a restrictive licence, subject to such limitations and restrictions on copying, publishing, distributing, transmitting, citing, or adapting the data assets as the private sector entity may impose.

(3) A private sector entity may develop a derivative version of a data asset, whereby the data asset is aggregated or anonymised, to facilitate the publication of that data asset under an open licence under subsection (2)(a).

Online interface.

14. (1) The Commissioner of Information may maintain a single public interface online as a point of entry for the purpose of making public data assets available to the public.

(2) The Minister shall, in consultation with the Commissioner of Information, determine the method to access any public data assets published through the interface under subsection (1).

PART IV
MISCELLANEOUS PROVISIONS

Confidentiality.

15. (1) An officer, employee or agent of a public authority shall not disclose to any other person or use-

(a) any confidential information obtained as a result of his or her connection or dealing with the data of the public authority; or

(b) non-public data assets,

except so far as it is required or permitted in the exercise of his or her official duties or under any law.

(2) A person who wilfully discloses or uses confidential information or non-public data assets in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for six months.

Regulations.

16. The Minister may, in consultation with the Commissioner of Information, make regulations for the purpose of giving effect to the provisions of this Act.

Act binds the State.

17. This Act binds the State.

Passed by the National Assembly on November25,2024.

S.E. Isaacs.A.A,
Clerk of the National Assembly.

(BILL No. 13/2024)