



DRAFT PAIA AMENDMENT BILL

A civil society initiative

Why a Draft Amendment Bill now?

- PAIA has been amended twice fairly recently:
 - POPIA Act amended it to provide for the handover of powers and functions from the SAHRC to the Information Regulator (IR)
 - PAIA Amendment Act, 2019, amended in accordance with the Con Court ruling that private funding of political parties be publicly available.
- There have also been a number of specific amendments over the years to address isolated issues as they have cropped up.
- There has not been a general overhaul or updating of PAIA since its enactment of 2002

Overall aims of the Draft Amendment Bill

- To look at PAIA in its entirety and try to make it better.
- Starting point: excellent proposals for reform by the SAHRC which has had nearly 20 years' experience in assisting the public to secure their access to information rights – they know where the pitfalls/bottle-necks are.
- But also: new guidelines etc coming out of the African Commission on Human and Peoples' Rights (ACHPR):
 - Access to Information and Elections in Africa
 - Model Law on Access to Information in Africa
 - Declaration of Principles on Freedom of Expression and Access to Information in Africa

So what are the proposed changes?

- To facilitate access to online information, including through the development of accessibility guidelines by the IR
- To encourage and facilitate pro-active information sharing on the part of public bodies through introducing provisions relating to open data and open government
- To promote open access to educational and governmental resources
- To improve the management of information records
- To broaden the definition of a public body to include Parliament and provincial legislatures and any private body performing a public function
- To update definitions to take the internet into account

So what are the proposed changes?

- To provide for an entirely new section 9A to encourage the publication of information online and to prohibit private and public bodies from disrupting access to the internet and to prevent the adoption of undue internet-related taxes
- To delete the exemption for Cabinet records in s12
- To make it clear the PAIA manuals contain detailed info of all relevant info including fees payable
- To include new obligations in relation to data management to require public bodies to provide access as quickly, cheaply etc as possible.

So what are the proposed changes?

- To do away with fees for electronic records
- To improve annual reporting on information requests to ensure that outcomes of court actions are reported on
- To make changes to the public interest override to include SARS-related information (previously excluded) and to broaden the provisions of the override to make the tests separate as opposed to cumulative and to broaden risks to all that “may reasonably result in public harm” ie beyond public safety or environmental risks.
- To empower the IR (as opposed to the Minister) to grant exemptions from private bodies from complying with certain provisions

So what are the proposed changes?

- To require disclosure not only of funding of political parties but to make obligations to disclose election-related information held by other private bodies too – new s52B
- To make provision for a new section to deal with urgent requests for access through applications to court – s82A
- To make provision for new offences to strengthen the enforcement of PAIA obligations.



THANK YOU