

An update of the Promotion of Access to Information Act (PAIA)



The Promotion of Access to Information Act (PAIA) was promulgated in 2000 and is intended to give effect to the Constitution, granting any person or Juristic person the right to have access to information to enforce any right of such person.

The purpose of the Act is to promote the right of access to information and to foster a culture of transparency and accountability.

The Promotion of Access to Information Amendment Bill (the Bill) was declared invalid in June 2018, to the extent that it is inconsistent with the Constitution by failing to provide for the recordal, preservation and reasonable disclosure of information on the private funding of political parties and independent candidates.

The proposed new chapter 2A focuses on the publication and availability of certain records of political parties to fall in line with the Constitutional Court ruling that Parliament has 18 months within which to remedy the defect in the Act and take measures it deems appropriate to provide for the inconsistencies.

Responsibilities of the accounting officer of a political party

The Bill assigns the following responsibilities to the accounting officer of a political party (who is now included in the definition of an independent candidate):

- To create and keep records of any money paid or donated by persons or entities to a political party in excess of R100 000 per financial year;
- Any money lent to the political party;
- Any money paid on behalf of a political party for any expenses incurred directly or indirectly by the political party;
- Assets, services or facilities provided to a political party;
- Any sponsorships provided to a political party, excluding services rendered personally by volunteers.

These records must be kept for a period of 5 (five) years and be available on social media platforms on a quarterly basis as well as two months before the election of the National Assembly or provincial legislature and municipal elections. The Information Regulator also commented that no entity should be excluded from the Act and that the information should be available to persons who do not have access to social media advertising.

In conclusion

Following the procedures in section 75 of the Constitution to amend the Bill will have no additional financial or provincial implications. The amendment of the Bill will allow citizens to effectively exercise their Constitutional right within a democratic system to make political choices and participate in elections, which is more consistent with the current Act and constitutional values.

The Bill will now be referred to the National Council of Provinces for consideration although time for comments on the Bill had expired in August 2019. We look forward to seeing what measurements and amendments to the Act will be considered and implemented by the Committee.

SERR Synergy assists businesses in compiling PAIA Manuals and submitting these to the South African Human Rights Commission on an annual basis. Our professional legal team ensures that all the information of the business, including the Information Officer's details, is provided in the Manual. The Manual also includes the different categories of information, with an indication of which information is confidential or automatically available, as required by PAIA. We ensure that our clients keep their PAIA Manual updated, on-site and accessible on their website. Our team will ensure that all updates and possible amendments to the Act are communicated to clients to ensure compliance.

About the Author: Retha van Zyl completed her B.Com Hons (Economics and Risk Management) studies at the North West University. She joined our team in January 2016 and currently holds the title 'Information Compliance Advisor'. She specialises in POPI and PAIA compliance, which includes compiling and submitting PAIA Manuals to the Human Rights Commission. She also compiles the Data and Information Protection Report to identify risks associated with information security and drafts information security policies for procedural compliance in each department within an organisation.

Sources:

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