WERKSMANS
ATTORNEYS

REGULATORY

Finally, my little eye spies a PAIA Guide!

13 October 2021 *4 min read*

Promotion of Access to Information Act 2 of 2000

The 28th of September was declared by UNESCO in 2019, as *The International Day for Universal Access to Information* (annually) and was celebrated locally by the members of the Information Regulator this year. In line with the principles of universal access to information, on 12 October 2021 the Information Regulator published its Guide on how to use the Promotion of Access to Information Act 2 of 2000 ("**PAIA Guide**") in each of South Africa's eleven official languages, including, Afrikaans, English, isiNdebele, isiXhosa, isiZulu, Sepedi, Sesotho, Setswana, Siswati, Tshivenda and Xitsonga.

The PAIA Guide

A company's PAIA Manual must include a reference to the PAIA Guide. We discussed this in our previous article on 3 September 2021. The PAIA Guide has been published to fulfil the Information Regulator's obligation as set out in Section 10 of the Promotion of Access to Information Act 2 of 2000 ("**PAIA**"). As the name suggests, the PAIA Guide acts as a tool to aid laypersons in their interpretation and use of the provisions of PAIA in exercising their constitutional right to access to information.

More specifically, the Guide will assist data subjects on how to access their personal information in line with Section 23 of the Protection of Personal Information Act 4 of 2013 which gives data subjects the right to:

- request a responsible party confirm, free of charge, whether or not the responsible party holds personal information about them; and
- request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.

Furthermore, the PAIA Guide provides a data subject with assistance regarding:

- the purpose of PAIA;
- learning the process to be followed to make a request for information;
- learning the types of information that can be requested in terms of PAIA; and
- understanding that the responsible party may refuse to grant the data subject access to the requested information upon certain grounds.

The publication of the PAIA Guide in South Africa's eleven different languages will further aid in allowing laypersons to exercise their rights in terms of PAIA under the guidance of a document written in their home language. However, how a layperson will fill out the necessary request for information forms (which are in English) and request such information from an entity remains unchanged.

PAIA itself has not been published in the eleven official languages which makes any further enquiries into the application of the provisions of PAIA, beyond those explained in the PAIA Guide, difficult for non-English speakers. Although the practice is to publish new pieces of legislation in English and in one other official language, as the principal piece of legislation governing a person's access to information rights, more effort should be made to ensure that PAIA is made more accessible to all persons to which it applies.

PAIA Guide in each of South Africa's eleven official languages

Efforts are being made to improve the ability of laypersons to exercise their constitutional right to access to information through the publication of the PAIA Guide in each of South Africa's eleven official languages. The published PAIA Guide in all official eleven languages is a positive contribution that will benefit all South African citizens. But it will also benefit all parties who are required to make the PAIA Guide available in at least two of the official languages. Understanding the changing legislative landscape is without a doubt important. Therefore, we need to keep our eyes wide open to new obligations.

Template PAIA Manuals published by the Information Regulator – find out more.

by Ahmore Burger-Smidt, Director and Head of Data Privacy and Cybercrime Practice and member of the Competition Law Practice and Rebecca Hill, Candidate Attorney



Ahmore Burger-Smidt

Head of Regulatory

View Profile