

PAIA Definitions

Advantage Learning Technologies (PTY) LTD

Definitions

—In this Act, unless the context indicates otherwise—

“access fee” means a fee prescribed for the purposes of section 22 (6) or 54 (6), as the case may be;

“application” means an application to a court in terms of section 78;

“biometrics” means a technique of personal identification that is based on physical, physiological or behavioural characterisation including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition;

(Pending amendment: Definition of “biometrics” to be inserted by s. 110 read with para. 1 (a) of the Sch to Act No. 4 of 2013 and commences on a date determined by the President by proclamation in the Gazette: 30 June, 2021.)

(Date of commencement: 30 June, 2021)

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“court” means—

- A. the Constitutional Court acting in terms of section 167 (6) (a) of the Constitution; or
 - i. a High Court or another court of similar status; or
 - ii. a Magistrate’s Court for any district or for any regional division established by the Minister for the purposes of adjudicating civil disputes in terms of section 2 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), either

generally or in respect of a specified class of decisions in terms of this Act, designated by the Minister by notice in the Gazette and presided over by a magistrate, an additional magistrate or a magistrate of a regional division established for the purposes of adjudicating civil disputes, as the case may be, designated in terms of section 91A, [Subpara. (ii) substituted by s. 6 of Act No. 24 of 2015.]

within whose area of jurisdiction—

- I. the decision of the information officer or relevant authority of the public body or the head of a private body has been taken;
- II. the public body or private body concerned has its principal place of administration or business; or
- III. the requester or third party concerned is domiciled or ordinarily resident; [Definition of “court” substituted by s. 1 of Act No. 54 of 2002.] [General Note: Designation of magistrate’s courts has been published under Government Notice No. R.585 in Government Gazette 26332 of 14 May, 2004.]

“evaluative material” means an evaluation or opinion prepared for the purpose of determining—

- A. the suitability, eligibility or qualifications of the person to whom or which the evaluation or opinion relates—
 - i. for employment or for appointment to office;
 - ii. for promotion in employment or office or for continuance in employment or office;
 - iii. for removal from employment or office; or
 - iv. for the awarding of a scholarship, award, bursary, honour or similar benefit; or
- B. whether any scholarship, award, bursary, honour or similar benefit should be continued, modified, cancelled or renewed;

“head” of, or in relation to, a private body means—

- A. in the case of a natural person, that natural person or any person duly authorised by that natural person;
- B. in the case of a partnership, any partner of the partnership or any person duly authorised by the partnership;
- C. in the case of a juristic person—

- i. the chief executive officer or equivalent officer of the juristic person or any person duly authorised by that officer; or
- ii. the person who is acting as such or any person duly authorised by such acting person;

“head” of, or in relation to, a private body means—

(a) in the case of a natural person, including a person referred to in paragraph (c) of the definition of “political party”, that natural person or any person duly authorised by that natural person;

(b) in the case of a partnership, any partner of the partnership or any person duly authorised by the partnership;

(c) in the case of a juristic person—

(i) the chief executive officer or equivalent officer of the juristic person or any person duly authorised by that officer; or

(ii) the person who is acting as such or any person duly authorised by such acting person; or

(d) in the case of political party, the leader of the political party or any person duly authorised by that leader;

Pending amendment: Definition of “head” to be substituted by s. 1 (a) of Act No. 31 of 2019 and commences on a date determined by the President by proclamation in the Gazette – date not determined.)

Date of commencement to be proclaimed)

“health practitioner” means an individual who carries on, and is registered in terms of legislation to carry on, an occupation which involves the provision of care or treatment for the physical or mental health or for the wellbeing of individuals;

“Human Rights Commission” means the South African Human Rights Commission referred to in section 181 (1) (b) of the Constitution;

Human Rights Commission

Pending amendment: Definition of “human rights commission” to be omitted by s. 110 read with para. 1 (b) of the Sch to Act No. 4 of 2013 and commences on a date determined by the President by proclamation in the Gazette: 30 June, 2021.)

(Date of commencement: 30 June, 2021)

“individual’s next of kin” means—

- A. an individual to whom the individual was married immediately before the individual’s death;
- B. an individual with whom the individual lived as if they were married immediately before the individual’s death;
- C. a parent, child, brother or sister of the individual; or
- D. if—
 - i. there is no next of kin referred to in paragraphs (a), (b) and (c); or
 - ii. the requester concerned took all reasonable steps to locate such next of kin, but was unsuccessful, an individual who is related to the individual in the second degree of affinity or consanguinity;

“information officer” of, or in relation to, a public body—

- A. in the case of a national department, provincial administration or organisational component—
 - i. mentioned in Column 1 of Schedule 1 or 3 to the Public Service Act, 1994 (Proclamation No. 103 of 1994), means the officer who is the incumbent of the post bearing the designation mentioned in Column 2 of the said Schedule 1 or 3 opposite the name of the relevant national department, provincial administration or organisational component or the person who is acting as such; or
 - ii. not so mentioned, means the Director General, head, executive director or equivalent officer, respectively, of that national department, provincial administration or organisational component, respectively, or the person who is acting as such; [Subpara. (ii) substituted by s. 21 of Act No. 42 of 2001.]
- B. in the case of a municipality, means the municipal manager appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), or the person who is acting as such; or
- C. in the case of any other public body, means the chief executive officer, or equivalent officer, of that public body or the person who is acting as such;

“internal appeal” means an internal appeal to the relevant authority in terms of section 74;

“international organisation” means an international organisation—

- A. of states; or
- B. established by the governments of states;

“Minister” means the Cabinet member responsible for the administration of justice;

“notice” means notice in writing, and “notify” and

“notified” have corresponding meanings;

“objects of this Act” means the objects of this Act referred to in section 9;

“official”, in relation to a public or private body, means—

- A. any person in the employ (permanently or temporarily and fulltime or parttime) of the public or private body, as the case may be, including the head of the body, in his or her capacity as such; or
- B. a member of the public or private body, in his or her capacity as such;

“person” means a natural person or a juristic person;

“personal information” means information about an identifiable individual, including, but not limited to—

- A. information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, wellbeing, disability, religion, conscience, belief, culture, language and birth of the individual;
- B. information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- C. any identifying number, symbol or other particular assigned to the individual;
- D. the address, fingerprints or blood type of the individual;
- E. the personal opinions, views or preferences of the individual, except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual;
- F. correspondence sent by the individual that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- G. the views or opinions of another individual about the individual;
- H. the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual, but excluding the name of the other individual where it appears with the views or opinions of the other individual; and
- I. the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual, but excludes information about an individual who has been dead for more than 20 years;

“personal information” means information relating to an identifiable natural person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, wellbeing, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;

- (c) any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assigned to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person, but excludes information about an individual who has been dead for more than 20 years;

(Pending amendment: Definition of “personal information” to be substituted by s. 110 read with para. 1 (c) of the Sch to Act No. 4 of 2013 and commences on a date determined by the President by proclamation in the Gazette: 30 June, 2021.) (Date of commencement: 30 June, 2021)

“personal requester” means a requester seeking access to a record containing personal information about the requester;

“political party” means—

- (a) any entity that accepts donations principally to support or oppose any registered political party or its candidates, in an election as defined in section 1 of the Electoral Act, 1998 (Act No. 73 of 1998);
- (b) any registered political party as defined in the Electoral Act, 1998; or
- (c) a natural person who is an independent candidate;

(Pending amendment: Definition of “political party” to be inserted by s. 1 (b) of Act No. 31 of 2019 and commences on a date determined by the President by proclamation in the Gazette – date not determined.) (Date of commencement to be proclaimed)

“prescribed” means prescribed by regulation in terms of section 92;

“private body” means—

- A. a natural person who carries or has carried on any trade, business or profession, but only in such capacity;
 - B. a partnership which carries or has carried on any trade, business or profession; or
 - C. any former or existing juristic person,
- but excludes a public body;

“private body” means—

- (a) a natural person who carries or has carried on any trade, business or profession, but only in such capacity;
- b) a partnership which carries or has carried on any trade, business or profession;
- (c) any former or existing juristic person; or
- (d) a political party, but excludes a public body;

(Pending amendment: Definition of “private body” to be substituted by s. 1 (c) of Act No. 31 of 2019 and commences on a date determined by the President by proclamation in the Gazette – date not determined.) (Date of commencement to be proclaimed)

“public safety or environmental risk” means harm or risk to the environment or the public (including individuals in their workplace) associated with—

- A. a product or service which is available to the public;
- B. a substance released into the environment, including, but not limited to, the workplace;
- C. a substance intended for human or animal consumption;
- D. a means of public transport; or
- E. an installation or manufacturing process or substance which is used in that installation or process;

“public body” means—

- A. any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
- B. any other functionary or institution when—
 - i. exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
 - ii. exercising a public power or performing a public function in terms of any legislation;

“record” of, or in relation to, a public or private body, means any recorded information—

- A. regardless of form or medium;
- B. in the possession or under the control of that public or private body, respectively; and
- C. whether or not it was created by that public or private body, respectively;

“Information Regulator” means the Information Regulator established in terms of section 39 of the Protection of Personal Information Act, 2013;

(Pending amendment: Definition of “information record” to be inserted by s. 110 read with para. 1 (e) of the Sch to Act No. 4 of 2013 and commences on a date determined by the President by proclamation in the Gazette: 30 June, 2021.) (Date of commencement: 30 June, 2021)

“relevant authority”, in relation to—

- A. a public body referred to in paragraph (a) of the definition of “public body” in the national sphere of government, means—
 - i. in the case of the Office of the Presidency, the person designated in writing by the President; or
 - ii. in any other case, the Minister responsible for that public body or the person designated in writing by that Minister;
- B. a public body referred to in paragraph (a) of the definition of “public body” in the provincial sphere of government, means—
 - i. in the case of the Office of a Premier, the person designated in writing by the Premier; or
 - ii. in any other case, the member of the Executive Council responsible for that public body or the person designated in writing by that member; or
- C. a municipality, means—
 - i. the mayor;
 - ii. the speaker; or
 - iii. any other person, designated in writing by the Municipal Council of that municipality;

“request for access”, in relation to—

- A. a public body, means a request for access to a record of a public body in terms of section 11; or
- B. a private body, means a request for access to a record of a private body in terms of section 50;

“requester”, in relation to—

- A. (a) a public body, means— (i) any person (other than a public body contemplated in paragraph (a) or
 - i. of the definition of “public body”, or an official thereof) making a request for access to a record of that public body; or
 - ii. a person acting on behalf of the person referred to in subparagraph (i);
- B. a private body, means—
 - i. any person, including, but not limited to, a public body or an official thereof, making a request for access to a record of that private body; or
 - ii. a person acting on behalf of the person contemplated in subparagraph (i);

“subversive or hostile activities” means—

- A. aggression against the Republic;
- B. sabotage or terrorism aimed at the people of the Republic or a strategic asset of the Republic, whether inside or outside the Republic;
- C. an activity aimed at changing the constitutional order of the Republic by the use of force or violence; or
- D. a foreign or hostile intelligence operation;

“third party”, in relation to a request for access to—

- A. a record of a public body, means any person (including, but not limited to, the government of a foreign state, an international organisation or an organ of that government or organisation) other than—
- i. the requester concerned; and
 - ii. a public body; or
- B. a record of a private body, means any person (including, but not limited to, a public body) other than the requester,
- but, for the purposes of sections 34 and 63, the reference to “person” in paragraphs (a) and (b) must be construed as a reference to “natural person”;

“this Act” includes any regulation made and in force in terms of section 92;

“transfer”, in relation to a record, means transfer in terms of section 20 (1) or (2), and

“transferred” has a corresponding meaning;

“working days” means any days other than Saturdays, Sundays or public holidays, as defined in section 1 of the Public Holidays Act, 1994 (Act No. 36 of 1994).