BERMUDA

PERSONAL INFORMATION PROTECTION AMENDMENT ACT 2023

2023 : 23

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WHEREAS it is expedient to amend the Personal Information Protection Act 2016 to make consequential amendments to the Public Access to Information Act 2010 and the Public Access to Information Regulations 2014; and to give the Minister the power to make further consequential and related amendments and transitional and saving provisions as considered necessary or expedient as a consequence of this Act;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Preliminary

Citation

1 (1) This Act may be cited as the Personal Information Protection Amendment Act 2023.

(2) In this Act—

(a) "PIPA" means the Personal Information Protection Act 2016;

(b) "PATI" means the Public Access to Information Act 2010;

(c) "PATI Regulations" means the Public Access to Information Regulations 2014.

Amendments to PIPA

Amends section 2

2 In section 2 of PIPA delete the definition of "Minister" and substitute the following—

" "Minister" means the Minister to whom responsibilities under this Act are assigned;".

Amends section 4

3 In section 4(4) of PIPA , delete ", in which case, the Human Rights Act 1981 prevails".

Amends section 9

4 In section 9 of PIPA—

(a) in subsection (1)(e), delete "name" and substitute "contact details";

(b) in subsection (1)(f), delete "rectifying" and substitute "correcting".

Amends section 18

5 In section 18(2) of PIPA, delete "in relation to the subject matter of the record,".

Amends section 19

6 In the heading to section 19 of PIPA, delete "Rectification" and substitute "Correction".

Amends section 26

7 At the end of section 26 of PIPA, insert—

"(6) The office of Commissioner shall become vacant—

(a) at the expiry of the Commissioner's period of appointment;

(b) if the Commissioner resigns his office in writing to the Governor;

(c) if the Commissioner becomes a Senator or a member of, or a confirmed candidate for election to, the House of Assembly or the holder of any office in any political party; or

(d) if the Governor, acting in his discretion, directs that the Commissioner shall be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, or for contravention of subsection (5).".

Amends section 29

8 In section 29(1) of PIPA, delete paragraph (n) and substitute—

"(n) charge such fee as he considers reasonable for any services provided under this Act;".

Amends section 37

9 In section 37(1) of PIPA, delete "three months" and substitute "six months".

Amends section 52

10 In section 52 of PIPA, delete subsection (2) and substitute—

"(2) The Minister may appoint different days—

(a) for different purposes; or

(b) in respect of different classes of organisation.".

Amendments to PATI & PATI Regulations

Amends section 3

11 In section 3(1) of PATI in the definition of "requester", delete "or a person who makes a request for amendment of a record under section 19, as the case may be".

Amends section 4

12 In section 4(1)(b) of PATI, after subparagraph (iii) insert—

"(iiia) the Office of the Privacy Commissioner;".

Inserts section 12A

13 After section 12 of PATI, insert—

"**Application of Personal Information Protection Act 2016**

12A Following the commencement of the Personal Information Protection Act 2016—

(a) this Act shall no longer apply to records relating to the personal information of a requester;

(b) any requester making a request under section 12, in whole or in part, to a public authority to access or amend his personal information shall be notified in writing that he should proceed under the Personal Information Protection Act 2016;

(c) a written notification under paragraph (b) shall be provided within five working days after receipt of the request.".

Repeals section 19

14 Section 19 of PATI is repealed.

Amends section 23

15 In section 23 of PATI—

(a) in subsection (1) insert "and pursuant to section 12A" after "Subject to the provisions of this section";

(b) repeal subsections (2)(a), (3), (4) and (5);

(c) delete subsection (6) and substitute—

"(6) A record that contains personal information shall be disclosed if disclosure of it is in the public interest.".

Amends section 24

16 In section 24 of PATI (definition of personal information)—

(a) delete subsection (1) and substitute—

"(1) Subject to subsection (2), "personal information" means any information about an identified or identifiable individual (see the Personal Information Protection Act 2016).";

(b) delete subsection (2)(a) and substitute—

"(a) information about an individual who is or was an officer or employee of a public authority that relates to the position or functions of the individual, except where the individual is a police officer of the Bermuda Police Service who is or was engaged in a surveillance function during the course of his employment;".

Amends section 41

17 In section 41 of PATI, repeal paragraph (f).

Amends section 58

18 In section 58(2) of PATI, repeal paragraph (b).

Amends the Schedule

19 In the Schedule to PATI, after paragraph 11 insert—

" 11A. The Office of the Privacy Commissioner

Amends PATI Regulations

20 The following provisions of the PATI Regulations are revoked—

(a) regulations 12, 14, 15, 16 and 21;

(b) in regulation 17, paragraph (a);

(c) in Schedule 1, the words from "If you are making a request for personal information" to the end;

(d) Schedule 3.

Final provisions

Consequential amendments

21 The Minister may, by regulations subject to the negative resolution procedure, make further consequential and related amendments to any provision of any other enactment if it appears to the Minister that the provision is inconsistent with, or requires amendment consequentially upon, or has become unnecessary in consequence of, the provisions of this Act.

Transitional

22 (1) The Minister may, by regulations subject to the negative resolution procedure, make such transitional and saving provisions as he considers necessary or expedient as a consequence of this Act.

(2) Regulations under this section may in particular make provision relating to requests made under PATI before the commencement of sections 11 to 20 of this Act relating in whole or in part to personal information (as defined in PIPA) which have not been finally disposed of, and any pending internal reviews or proceedings relating to such requests.

Commencement

23 This Act comes into operation on such day as the Minister responsible for information and communication technologies policy and innovation appoints by notice published in the Gazette.

[Assent Date: 17 July 2023]

BERMUDA

PERSONAL INFORMATION PROTECTION AMENDMENT ACT 2023 COMMENCEMENT DAY NOTICE 2024

BR 116 / 2024

The Minister responsible for information and communication technologies policy and innovation, in exercise of the power conferred by section 23 of the Personal Information Protection Amendment Act 2023, makes the following Notice:

Citation

1 This Notice may be cited as the Personal Information Protection Amendment Act 2023 Commencement Day Notice 2024.

Commencement

2 The Personal Information Protection Amendment Act 2023 shall come into operation on 1 January 2025.

Made this 30th day of September 2024

Minister of the Cabinet Office

[Operative Date: 07 November 2024]

BERMUDA

PERSONAL INFORMATION PROTECTION (TRANSITIONAL) REGULATIONS 2024

BR 132 / 2024

The Minister for the Cabinet Office, in exercise of the power conferred by section 22 of the Personal Information Protection Amendment Act 2023, makes the following Regulations:

Citation

1 These Regulations may be cited as the Personal Information Protection (Transitional) Regulations 2024.

Interpretation

2 In these Regulations—

"PATI" means the Public Access to Information Act 2010;

"PATI Regulations" means the Public Access to Information Regulations 2014;

"personal information" has the meaning given in section 2 of PIPA (any information about an identified or identifiable individual);

"PIPA" means the Personal Information Protection Act 2016;

"PIPAA 2023" means the Personal Information Protection Amendment Act 2023;

"pre-commencement PATI request" means a request received by a public authority under PATI before 1 January 2025 which relates in whole or in part to personal information, but does not include such a request if it is transferred to another public authority under section 13(5) of PATI and received by that authority on or after 1 January 2025.

Transitional provision

3 (1) Notwithstanding section 12A(a) of PATI (Act no longer applies to records relating to the personal information of a requester on commencement of PIPA), any pre-commencement PATI request which has not been finally disposed of before 1 January 2025, including any internal review, review by the Information Commissioner, or proceedings relating to such a request, shall be continued under and in accordance with PATI as if the amendments made to PATI and to the PATI Regulations by PIPAA 2023 were not in effect.

(2) Any clarification required in relation to the continued application of PATI to pre-commencement PATI requests may be dealt with by guidance issued by the Information Commissioner after consulting the Privacy Commissioner.

Commencement

4 These Regulations shall come into effect on 1 January 2025.

Made this 23rd day of December 2024

Minister for the Cabinet Office

[Operative Date: 01 January 2025]