



**BERMUDA**

**PERSONAL INFORMATION PROTECTION AMENDMENT ACT 2023**

**2023 : 23**

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## PERSONAL INFORMATION PROTECTION AMENDMENT ACT 2023

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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”.

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### **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.”.

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### *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)—

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(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.

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### **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]

[Operative Date: 01 January 2025]