

Polonia

Journal of Laws 01.112.1198

2004-01-01 amended by Journal of Laws 02.153.1271 Article 82

2004-11-23 amended by Journal of Laws 04.240.2407 Article 9

ACT

of 6 September, 2001 on access to public information.

(Journal of Laws of 8 October, 2001)

Chapter 1

General Provisions

Article 1.1 Each information on public matters constitutes public information in the understanding of the Act and is subject to being made available on the basis of principles and under the provisions defined in this Act.

2. The provisions of the Act shall not breach the provisions of other acts defining different principles and the mode of access to the information being public information.

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Article 2 . 1 Each person is entitled, with the stipulation of Article 5, to the right of access to public information, hereinafter referred to as “the right to public information”.

2. The person exercising the right to public information cannot be demanded to reveal the legal or factual purpose.

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Article 3. 1. The right to public information covers the entitlement to:

1) obtain public information, including obtaining information processed within such a frame, in which it is particularly essential for the public interest,

2) insight into the official documents,

3) access to the board meetings of public authorities bodies chosen by general elections,

2. The right to public information covers the entitlement to obtain immediately the information containing the knowledge on present public matters.

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Article 4. 1. To make the public information available is the obligation of the public authorities as well as other entities performing public functions, in particular:

1) bodies of public authority,

2) bodies of economic and professional local authorities,

3) entities representing the State Treasury in accordance with the separate provisions,

4) entities representing state legal persons or legal persons of local authorities and entities representing other state organisational units or organisation units of local authority,

5) entities representing other persons or organisational units, which perform public functions or dispose of public property as well as legal persons, in which the State Treasury, units of local authority or economic or professional local authority hold dominant position in the understanding of the provisions of competition and consumer protection.

2. To make public information available is the obligation of representative trade unions and employees organisations in the understanding of the Act of 6 July, 2001 on the Tripartite Committee for Social-Economic Matters and voivodship committees of social dialogue (Journal of Laws No 100, it. 1080, with later amend.) and political parties.

3. The entities, defined in it.1 and 2, being in possession of such information are obliged to make it available.

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Article 5. 1. The right to public information is subject to limitation to the extent and on the principles defined in the provisions on the protection of confidential information and on the protection of other secrets being statutorily protected.

2. The right to public information is subject to limitation in relation to privacy of a natural person or the secret of an entrepreneur. The limitation does not relate to the information on persons performing public functions, being connected with performing these functions, including the conditions of entrusting and performing these functions and in the event when a natural person or entrepreneur resigns from the right to which he was entitled to.

3. The access to public information on matters resolved before the state authorities, in particular in the administrative, criminal or civil proceedings cannot be limited, with the stipulation of it. 1 and 2, with respect to protection of the party's interest, if the proceedings concern the public authorities or other entities performing public functions or persons performing public functions – in the scope of these functions or tasks.

4. The limitations of access to information on cases, defined in it. 3, do not breach the right to information on organisation and work of the bodies conducting proceedings, in particular on time, mode and place and the order of investigating cases.

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Chapter 2

Access to public information

Article 6. 1. The following information is subject to being made available, in particular on:

1) internal and foreign policy, including:

- a) intentions of legislative and executive authorities,
- b) drafts on normative acts,
- c) programmes on realisation of public tasks, method of their realisation, performance and consequences of the realisation of these tasks,

2) entities, defined in Article 4, it. 1, including:

- a) legal status or legal form,
- b) organisation,
- c) subject of activity and competencies,
- d) bodies and persons performing functions therein and competencies,
- e) property structure of entities, defined in Article 4, it. 1, points 3-5,

- f) property they dispose of,
- 3) principles of functioning of entities, defined in Article 4, it. 1, including:
 - a) mode of conduct of public authorities and their organisational units,
 - b) mode of conduct of state legal persons and legal persons of local authorities in the area of performing public tasks and their activity within the frames of budget and non-budget economy,
 - c) methods of passing private-public acts,
 - d) methods of accepting and settling matters,
 - e) state of accepted cases, order of their settling or resolving,
 - f) conducted registers, books and archives and on methods and principles of making data there contained available,
- 4) public data, including:
 - a) contents and form of official documents, in particular:
 - contents of administrative acts and other resolutions,
 - documentation on the control and its effects as well as presentations, opinions, conclusions and statements of the entities having conducted the control,
 - b) opinion on public issues made by the bodies of public authority and by the public officers in the understanding of the provisions of the Penal Code,
 - c) contents of other presentations and assessments made by the bodies of public authority,
 - d) information on the condition of the state, local authorities and their organisational units,
- 5) public property, including:
 - a) property of the State Treasury and state legal persons,
 - b) other property rights to which the state and its debts are entitled to,
 - c) property of the units of local authority and professional and economic local authorities as well as property of legal persons of local authorities and the ill persons' offices,
 - d) property of the entities, defined in Article 4, it. 1, point 5, coming from disposing of the property, defined in c. a) – c) as well as the profits from this property and its encumbrances,
 - e) incomes and losses of the commercial companies in which the entities, defined in c. a) – c) hold the dominant position in the understanding of the provisions of the Commercial Companies Code and disposal of this income and the method of covering losses,
 - f) public debt,
 - g) public assistance,
 - h) public burden.

2. The official document in the understanding of this Act is the text of declaration of will or knowledge, preserved and signed in any form by the public officer in the understanding of the provisions of the Penal Code within the frames of its competencies, directed to another entity or filed to the acts.

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Article 7. 1. Making public information available takes place by means of:

- 1) announcing public information, including official documents, in the Public Information Bulletin, mentioned in Article 8,
- 2) making it available, mentioned in Articles 10 and 11,

3) entrance into the meetings of the bodies, defined in Article 3, it. 1, point 3, and making the materials available, including the audio-visual and tele-communicating, documenting these meetings.

2. Access to public information is free, with the stipulation of Article 15.

Article 8. 1. The official teleinformatics publicator – Public Information Bulletin – with the aim of making the public information commonly available, in the form of unified system in the telecommunication net, hereinafter referred to as “Public Information Bulletin”.

2. Public information is made available in Public Information Bulletin by the entities, defined in Article 4, it. 1 and 2.

3. The entities, defined in Article 1 and 2, are obliged to make in the Public Information Bulletin this public information available, defined in Article 6, it. 1 points 1-3, point 4 c. a) second, c. c) and d) and point 5. The entities, mentioned in the first sentence can make in the Public Information Bulletin also other public information.

4. The entities, defined in Article 4, it. 1 and 2, are obliged to make available in the Public Information Bulletin the information concerning the method of access to the public information being in their possession and not made available in the Public Information Bulletin.

5. In the event of exclusion of the openness of the public information, in the Public Information Bulletin the scope of exclusion shall be defined, the legal basis of the openness exclusion and points the body or a person to have made the exclusion and in the event, defined in Article 5, it. 2, the subject, to the interest of which the exclusion was made.

6. The entities making the information available in the Public Information Bulletin are obliged to:

- 1) mark the information with the data defining the entity making this information available,
- 2) give in the information the data defining the identity of a person, who produced the information or is responsible for its contents,
- 3) attach to the information the data defining the identity of a person, who introduced the information into the Public Information Bulletin,
- 4) mark the time of producing information and time of making it available,
- 5) protect the possibility of identification of the real time of making the information available.

Article 9. 1. The Minister competent for the affairs of public administration creates the website of the Public Information Bulletin, containing the list of entities, defined in Article 4, it. 1 and 2, alongside with the references enabling connection with these sites.

2. The entities, defined in Article 4, it. 1 and 2, create their own pages of Public Information Bulletin, on which they put information being subject to it.

3. The entities, defined in Article 4, it. 1 and 2, are obliged to transfer to the minister competent for administration affairs the information necessary to put it on the page, defined in it.1.

4. The minister competent for public administration affairs shall define by means of the ordinance:

- 1) specific standards of unified system of Public Information Bulletin system, in particular:
 - a) structure of the main website, defined in it. 1,
 - b) standards of pages structure, defined in it. 2,
- 2) scope and mode of transferring information, defined in it.3,
- 3) standards of protection of public information contents made available in Public Information Bulletin – taking into consideration the efficiency and uniformity of the action of the pages system of Public Information Bulletin.

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Article 10. 1. Public information, which was not made available in the Public Information Bulletin, is made available on the petition.

2. Public information, which can be immediately made available, is made available in the oral or written form without a written petition.

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Article 11. Public information can be made available:

1) by means of putting up or laying out in public places,

2) by means of installing in places, defined in point 1, devices which enable to familiarise with this information.

Article 12. 1. Public information made available in such a way, defined in Article 10 and 11, is marked with data defining the entity, which makes the information available, with the data defining the identity of a person, who produced the information or is responsible for its contents, data defining the identity of a person, who made this information available as well as the data being made available.

2. The entity making the information available is obliged to ensure the possibility of:

1) copying of public information or its printout or

2) sending the public information or transferring it to the appropriate, commonly used information carrier.

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Article 13. 1. Making the information available on the petition of is made without undue delay, no later however than within 14 days of submitting the petition, with the stipulation of it. 2 and Article 15, it.2.

If the public information cannot be made available within the date defined in it.1, the entity obliged to making it available notifies within this period of the reasons for delay and of the date on which he completes this information, not longer however, than two months of submitting the petition.

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Article 14. 1. Making the public information available takes place in the method and in forms which are in accordance with the petition unless the technical measures, which are at the disposal of the entity being obliged to do this, make it impossible to make the information available in the method and in form defined in the petition.

2. If the public information cannot be made available in the method or in form defined in the petition, the entity obliged to do this, notifies in writing the petitioner of the reasons for lack of possibility to make the information available in accordance with the petition and point in what way or in which method this information can be made available immediately. In such a case, if within 14 days of the notification the petitioner shall not submit the petition for making this information available in a method or in form pointed in the notification, the proceedings for making the information available are discontinued.

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Article 15. 1. If as a result of making public information on the petition, defined in Article 10, it. 1, the entity obliged to do this, is to incur the additional costs connected with the method defined in the petition of a method of making it available or necessity to transform the information in the form pointed in the petition, this entity is entitled to the payment from the petitioner covering these costs.

2. The entity, defined in it. 1, within 14 days of submitting the petition, shall notify the petitioner of the amount of the payment. Making the information available in accordance with the petition takes place after the expiration of the period of 14 days of notifying the petitioner unless the petitioner makes within this period the change in the petition in the scope of method and form of making this information available or withdraw the petition.

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Article 16. 1. The refusal to make the public information available and discontinuation of proceedings to make the information available in the case defined in Article 14, it. 2 by the body of public authority takes place by means of a decision.

2. In relation to the decision, defined in it. 1, the provisions of the Code of Administrative Proceedings shall apply, however:

1) the appeal from the decision is investigated within 14 days,

2) the justification of the decision on the refusal of making the information available includes also the names, surnames, and these persons' functions, who took decision under the procedure on making the information available and marking the entities, in relation to whose goods, defined in Article 5, it. 2, the decision on the refusal to make information available was issued.

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Article 17. 1. In cases of settlement concerning the entities obliged to make the information available, which are not the bodies of public authority, on the refusal of making information available and discontinuance of the proceedings on making the information available the provisions of Article 16 shall apply.

Article 18. 1. The meetings of board bodies of public authorities chosen in general election are open and available.

2. The meetings of the auxiliary bodies, defined in it. 1, are open and available as far as they are regulated by the provisions of the acts or legal acts issued on their basis or when the auxiliary body decides so.

3. The bodies, defined in it. 1 and 2, are obliged to ensure the premises and technical measures which enable to exercise the right, defined in Article 3, it. point 3. Where necessary, the audio-visual or telecommunication transmission from the bodies' meetings should be provided in accordance with it.1.

4. The limitation of the access to the bodies' meetings, defined in it. 1 and 2 for premises or technical reasons cannot lead to unjustified ensuring the access only in case of certain entity.

Article 19. The bodies, defined in Article 18, it. 1 and 2, draw up and make available the protocols and stenograms from their meetings unless they draw up and make available the audiovisual or telecommunication materials recording in full these meetings.

Article 20. The provisions of Article 18 and 19 shall accordingly apply in relation to board bodies chosen in general elections, auxiliary units of the local authority and their board auxiliary bodies.

Article 21. To the complaints considered in the proceedings on making public information available the provisions of the Act of 30 August, 2002 – the Law on proceedings before the administration courts (Journal of Laws No 153, it. 1270) shall apply with the stipulation of the case, defined in Article 22, however:

- 1) transferring the files and replies to the complaints shall be made within 15 days of receiving the complaint,
- 2) the complaint is considered within 30 days of receiving the files alongside with the reply to the complaint.

Article 22. 1. The entity, which was denied the access to the public information in respect to its exclusion of its openness when quoting the protection of personal data, the right to privacy and the secret other than state, official, treasury or statistical secret, is entitled to put an action to the court for making such information available.

2. The entity, to which the exclusion of public information is related, has a legal interest in commencing as an accidental intervener on the defendant's side.

3. The competent court for resolving the cases, defined in it. 1, is the district court with respect to the seat of the entity, which refused to make the public information available.

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Article 23. Whoever, contrary to the obligation weighing on him, shall not make the public information available, is subject to fine, penalty of restricted liberty or penalty of deprivation of liberty for up to one year.

Chapter 3

Provisions on amending the existing provision , transitory and final provisions

Article 24. In the Act of 26 January 1984 – the Law on Press (Journal of Laws it. 24, of 1988, no 41, it. 324 of 1989 no 34, it. 187, of 1990 no 29 it. 173 of 1991 no 100, it. 442 of 1996 no 114, it 542 of 1997 no 88 it. 554 and no 121, it. 770 and of 1990 no 90, it. 999) the following amendments are introduced:

1) the Article 3a is added in the wording:

“Article 3a. Within the scope of the right of access to public information the provisions of the Act of 6 September, 2001 on access to public information shall apply (Journal of Laws No 112, it. 1198).”

2) in Article 4:

a) it. 1 obtains the wording:

“1. The entrepreneurs and entities not qualified to the public finances sector and those not acting with the aim of achieving the profit are obliged to give to the press the information on their activity if on the basis of the separate provisions this information is not deemed as confidential or it does not breach the right to privacy.”,

b) the it. 2 is deleted,

c) in it. 3 the words “On the request of the editor-in –chef” are substituted with the words “In case of refusal to give public information, on the request of the editor-in-chef.”

d) The it. 5 and 6 are deleted;

3) in Article 11 it. 4 obtains the wording:

“4. The council of Ministers, by means of ordinance, defines the organisation and tasks of the spokespersons in the offices of government authority.”

Article 25. 1. To the issues concerning the access to public information, not finished on the day of coming into effect of the Act by the final or valid decision, the provisions of this Act shall apply.

2. The entities are obliged in cases, defined in it.1, within 14 days of the Act coming into effect, to make the public information available or issue a decision on the refusal to make the information available.

Article 26. The Act comes into effect on 1 January 2002 with the exception of the provision of Article 8, it. 3, which in relation to the imposed obligation to make the public information available in the Public Information Bulletin within the scope, mentioned in:

1) Article 6, it.1, point 1 and point 3 c. E) and point 4 c.a) tirit second, c. C) and d) – comes into effect after the lapse of 24 months of coming into effect of the Act,

2) Article 6, it.1 point 2 and point 3 c. A)-d) and c. f) – comes into effect after the lapse of 18 months of coming the Act into effect,

3) Article 6, it.1, point 5 – comes into effect after the lapse of 36 months of coming the Act into effect.