

Law N° 18,381 and Decree N° 232/010

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## LAW ON THE RIGHT OF ACCESS TO PUBLIC INFORMATION

### AMENDED VERSION

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**Regulated by:** Decree [N° 232/010](#) of August 2, 2010.

[Reference to all regulations](#)

### CHAPTER ONE - GENERAL PROVISIONS

#### [Article 1](#)

(Object of the Law).-

This law aims at promoting the transparency of the administrative role of all public institutions, whether governmental or not, and at guaranteeing the fundamental right of people to have access to public information.

#### [Article 2](#)

(Scope).-

Public information refers to all information deriving from or that is in possession of any public body, whether governmental or not, except for some cases or secrets established by Law, as well as for reserved or confidential information.

#### [Article 3](#)

(Right of access to public information).-

The access to public information is a right all people are entitled to, without discrimination for nationality or the capacity of the requestor, and it is exercised with no need to justify the reasons why such information is requested.

## CHAPTER TWO – PUBLIC INFORMATION

### Article 4

(Public Information).-

Public information is defined as all information produced, obtained, in possession of or under the control of the parties regulated by this Law, regardless of the format in which it is contained.

### Article 5

(Disclosure of public information).-

The regulated parties should anticipate the proper organization, systematization, and availability of the information in their possession, guaranteeing vast and easy access to interested parties.

Public institutions, whether governmental or not, shall permanently disclose the following minimum information, through their websites or other means established by the oversight entity:

- A) Its organizational chart.
- B) The powers of each administrative unit.
- C) The structure of emoluments by corporate ladder, tasks of each position and compensation system.
- D) Information on the allocated budget, its execution, with the results of the corresponding audits, as may correspond.
- E) Licences, tenders, permits or authorizations granted specifying the holders or beneficiaries thereof.
- F) All statistic information of public interest, by virtue of the objectives of each institution.
- G) Mechanisms of citizen participation, especially domicile and unit to which the information requests should be

addressed at.

#### References to Article

### Article 6

(Custody of information). -

By virtue of this Law, the regulated parties are responsible for creating and keeping records in a professional manner, for citizens to be able to fully exercise their right to access to public information.

The personnel in charge of administering, handling, filing, or preserving public information, together with the authority of the section the information belongs to, shall be jointly and severally liable for their actions or omissions, concealment, amendment, loss, or dismemberment of public information.

### Article 7

(Submission of reports). -

By virtue of the Law herein, all the regulated parties shall submit to the oversight entity, no later than the last working day of March of each year, an annual report on the compliance of the right of access to public information that shall contain:

A) Information regarding the previous period on the compliance with the obligations ascribed by this Law.

B) Detail on the requests of access to information and the procedure of each of them.

Without prejudice of the previous provisions, they will also be obliged to produce an updated biannual report with the list of reserved information.

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#### (\*) **Notes:**

**See:** LAW N° 19,696 of Oct. 29, 2018, Article [32](#) (excludes the intelligence agencies).

### Article 8

(Exception to public information). -

The exceptions to public information shall be of strict



interpretation and shall include those defined as secret by the law and the ones then defined as reserved and confidential.

#### References to the Article

### Article 9

(Reserved information) .-

Reserved information shall be classified as the information which disclosure could:

- A) Compromise public security or national defence.
- B) Undermine the negotiation process or the process of international relations, including information submitted by other states or international institutions to the Uruguayan government with reserved nature.
- C) Damage the financial, economic, or monetary stability of the country.
- D) Jeopardize life, human dignity, security, or health of any person.
- E) Mean a loss of competitive advantages to the regulated party or that may damage its production process.
- F) Unprotect scientific, technological, or cultural discoveries developed by or in possession of the regulated parties.
- G) Affect the free and open provision of advisory, opinions or recommendations that are part of a deliberative process of the regulated parties, until the respective decision is taken, which shall be recorded. (\*)

The classification of the reserved information shall be made by the regulated party at the time this information is issued, obtained, or amended, by duly justified resolution that proves the existence of objective elements that enable to determine that the disclosure means a clear, specific, and possible risk of damage to the protected public interest, as

per the exceptions mentioned in this article. (\*)

As an exception, the information may be classified as reserved at the time the access request is received. In this case, the justified decision that provides the classification of the information shall be referred to the Access to Public Information Unit within a five-working-day term, which as oversight entity, will request the regulated party its declassification in case such information does not comply with the provisions of this article. In any case, the reserve term shall start at the moment the information could have been classified. (\*)

The Access to Public Information Unit may, at all times, have access to classified information to assess the appropriateness of its classification. (\*)

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(\*) **Notes:**

Paragraph g) e section 2), 3) and 4) **additions by:** Law No. 19,178 of Dec. 27, 2013, Article [1](#).

**See in this Regulation, Articles:** [12](#) and [33](#).

Reference to the Article

## Article 10

(Confidential Information). - Confidential information means:

I) The information submitted as such to the regulated parties as long as:

A) It refers to the estate of the person.

B) It includes facts or acts of economic, accounting, legal or administrative nature connected to an individual or legal entity, that may result useful for a competitor.

C) It is protected by a confidentiality agreement clause.

II) Personal data requires previous informed consent.

The documents or sections of documents containing such data shall bear the same nature.



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(\*) **Notes:**

See this regulation, Article: [12](#).

[Reference to the Article](#)

### [Article 11](#)

(Reserve period). - The information previously classified as reserved shall be kept as such for a period of fifteen years as from its classification. The reserved information shall be declassified when the causes that led to its classification expire. The reserve period on certain documentation shall only be extended when the original causes are justified and remain in force.

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(\*) **Notes:**

See this Regulation, Article: [12](#).

[References to the Article](#)

### [Article 12](#)

(Unenforceability in cases of violation of human rights). The parties regulated under this Law may not invoke any of the assumptions of reserved nature mentioned in the previous articles when the information requested refers to violations of human rights or if the information results essential to investigate, prevent or avoid violations of human rights.

[Reference to Article](#)

## **CHAPTER THREE - ON THE ADMINISTRATIVE PROCEDURE TO HAVE ACCESS TO PUBLIC INFORMATION**

### [Article 13](#)

(Requirements and requests). - Every individual or legal entity interested in having access to public information held by parties regulated by virtue of this Law should do so through a written request to the head of the entity. Such request shall include:

A) The identification of the requestors, their domiciles and means of communication.

B) The clear description of the required information and any data that could make its localization easier.

C) And, optionally, the preferred format of information, without this constituting an obligation for the institution.

[Reference to Article](#)

## [Article 14](#)

(Limits of access to public information). The request to access the information does not imply the obligation of the regulated parties to create or produce information they do not have or information they are not obliged to have at the moment the request is made. In this case, the institution shall send a written notice informing that the denial of the request is due to the inexistence of data in their possession. This law does not entitle the requestors to demand the institutions to carry out assessments or analysis of the information they have, except for those they need to produce for institutional purposes.

Production of information shall not mean the act of gathering or compiling information spread in the diverse areas of the entity with the aim of providing information to the requestor.

## [Article 15](#)

(Term). - Any individual or legal entity may issue a request to access information held by the regulated parties. Upon the request made by the interested party, the required institution is obliged to enable the access or, if possible, to answer the enquiry at the time it is requested. Otherwise, the requested party shall have a 20-working day term to allow or deny the access or to answer the enquiry.

The term may be extended, with justified grounds and in writing, for further twenty working days in exceptional cases.

[Reference to Article](#)

## [Article 16](#)

(Competence to decide). - The act that resolves upon the request shall come from the top position of the entity or the person exercising the delegated powers and shall accept or deny the access to the information in its possession connected to the request, on justified grounds.

[Reference to Article](#)

## [Article 17](#)

(Access). - In case the regulated parties favourably resolve



the request made, they shall authorize the enquiry of the relevant documents in the offices they determine, or they shall issue a true copy of the records they have in connection to the request.

Access to information will always be free of charge, but its reproduction in any format shall be borne by the interested parties, who shall reimburse the institution the price of the format, with no earnings or additional fees.

### Article 18

(Positive Silence). - The required institution may only refuse to the issuance of the requested information through a justified resolution of the head of the entity that declares its condition of reserved or confidential, indicating the legal provisions that justify so.

Once the twenty-working-day-term of the submission of the requests ends, if there was no extension or once the extension has ended and no express resolution has been notified to the interested party, the latter may access the corresponding information, and the refusal of any employee to provide it shall be considered wilful misconduct, as per provisions of Law No. 17, 060 of December 23, 1998, and of Article 31 of the present Law.

## **CHAPTER FOUR - OVERSIGHT ENTITY**

### Article 19

(Oversight entity). - The Access to Public Information Unit was created as a body independent from the Agency for e-Government and the Information and Knowledge Society (AGESIC for its acronym in Spanish), having the amplest technical autonomy. It shall be directed by an Executive Committee with three members: AGESIC's Executive Director and two members appointed by the Executive Branch among persons that, based on their personal and professional background and knowledge in the subject, assure independence of criterion, efficiency, objectiveness, and impartiality in the performance of their positions.

Except for AGESIC's Executive Director, members shall hold office for four years, and may be appointed for another period. They shall only abandon their positions when their periods have ended and successors are appointed, or due to removal decreed by the Executive Branch in cases of inadequacy, omission, or crime, as per the guarantees of due process.

The presidency of the Executive Board shall rotate annually between the two members appointed by the Executive Branch for such entity, and it shall be in charge of the representation



thereof and the execution of the necessary activities for the compliance of its resolutions.

#### Reference to Article

### Article 20

(Advisory Committee). - The Executive Committee of the Access to Public Information Unit shall operate assisted by an Advisory Committee, which shall include five members:

A) A person with a renowned career in the promotion and defence of human rights, appointed by the Legislative Branch, who may not be a legislator currently in office.

B) A representative of the Judicial Branch.

C) A representative of the Public Ministry.

D) A representative of the academic area.

E) A representative of the private sector, who shall be appointed as per the in-force regulations.

Its meetings shall be presided over by the President of the Access to Public Information Unit.

Its members shall hold office for a four-year term and shall meet upon the call of the President of the Access to Public Information Unit or of the majority of its members.

It may be consulted by the Executive Board on any aspect of its competence and shall be consulted by it when exercising regulatory powers.

### Article 21

(Objectives). - The Oversight Entity shall perform all necessary actions for complying with the objectives and other provisions of this law. For the purposes thereof, it shall have the following tasks and responsibilities:

A) To give advice to the Executive Branch in the compliance with the constitutional, legal, or regulatory regulations in force and regarding the international instruments ratified by the Republic that make reference to the access to public information.



B) To control the implementation of this law in the regulated parties.

C) To coordinate with the national authorities the implementation of policies.

D) To guide and advise individuals regarding the right of access to public information.

E) To train employees of the parties that are obliged to provide access to the information.

F) To promote and coordinate with all the regulated parties the policies aimed at facilitating the access to information and transparency.

G) To act as advisory entity for all matters connected to the implementation of this law by the regulated parties.

H) To promote educational and advertisement campaigns in which the right of access to information is reasserted as a fundamental right.

I) To issue an annual report for the Executive Branch about the state of affairs of this right.

J) To report, before the competent authorities, any case of infringement to this law and to provide the evidence it deems convenient.

K) To request the regulated party the declassification of the information that would have been classified without respecting the classification criteria set forth in this law.  
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(\*) **Notes:**

Paragraph k) **added by:** Law N° 19,178 of Dec. 27, 2013, Article 2.

## Reference to Article

### CHAPTER FIVE - ACTION OF ACCESS TO INFORMATION

#### Article 22

(Action of access to public information). All persons will have the right to file an effective legal action that guarantees the full access to information of their interest (Article 694 of Law No. 16, 736 of January 5, 1996).

#### Article 23

(Legal basis and competence)- The action to access the information applies against all parties regulated by this law, if the latter refuses to issue the requested information or does not respond within the terms set by the law.

The following courts shall be competent with regard to these actions:

1) In the capital city, the Contentious-Administrative Courts of First Instance, when the action is addressed at a government public entity, and to the Court of First Instance in Civil Matters for the rest of the cases.

2) Inland, the Courts of First Instance which are competent in the subject matter.

#### Article 24

(Legitimacy). The action to access the information shall be exercised by the interested parties or their representatives, whether guardians or executors, and in case of deceased persons, by their universal heirs, in direct or collateral line up to second grade, for themselves or through a representative.

In case of legal entities, the actions shall be carried out by their legal representatives or by the proxies appointed for the purposes thereof.

#### Article 25

(Procedure). - The actions that are filed due to the infringement of rights set forth in this law shall be governed by the rules contained in the articles that follow this one. These shall be applied with reference to articles 14 and 15 of the General Code of Procedure.

## Article 26

(First instance proceedings) Unless the action is expressly inappropriate, in which case the court will reject it without conducting it and shall decree the filing of the proceedings, the parties shall be called for a public hearing within three days as from the date in which the action was brought.

In such hearing, the defendant will provide explanations, evidence will be received, and the defence statement will be produced. The court, that may reject the evidence that is found to be expressly inappropriate or unnecessary, shall chair the hearing under penalty of nullity, and shall interrogate the witnesses and the parties, without prejudice of them being interrogated again by the attorneys. The court shall have the amplest powers of policing and conducting the hearing.

At any time, it may order proceedings to provide useful evidence.

Judgement shall be pronounced in the hearing or within twenty-four hours after it was held. Only in exceptional cases, the hearing may be postponed for up to three days.

Notices may be served by the police authorities. For the purposes of calculating the terms of compliance of instructions decreed in the judgement, the time at which the notice was served will be recorded.

## Article 27

(Temporary measures). - If it resulted from the lawsuit or in any other part of the process, at the discretion of the court, that is necessary for it to act immediately, this shall order, on a temporary basis, the measures that may correspond to protect the right or freedom that was allegedly infringed.

## Article 28

(Content of the judgement). - The judgement that gives way to the action of access shall contain:

A) The specific identification of the authority or the individual to whom it is addressed and against whose action, act or omission the access is guaranteed.



B) The precise determination of what should be done or not and the term for which such resolution shall be applicable, if it needs to be established.

C) The term for the compliance with the provisions, that shall be set by the court as per the circumstances of each case and shall not be greater than fifteen calendar continuous days, as from the notification.

### Article 29

(Appeal) In the proceedings, it shall only be possible to appeal the final judgement and the judgement rejecting the action for being expressly inappropriate.

The appeal shall be filed in writing and must be justified, within three days at most. The Court shall immediately submit the proceedings to a court of higher instance if the action was dismissed for express inappropriateness and shall conduct it with a notification to the counterparty, for three final days when the appealed judgement becomes final.

The court of appeal shall resolve accordingly, within four days after having received the proceedings. The filing of the appeal shall not suspend the decreed relief, which shall be complied with immediately after the sentence is notified, without need to wait for the end of the term for its contestation.

### Article 30

(Preliminary hearing. Other aspects). -

Previous matters, counter claims, or incidents may not be deducted in this kind of proceedings. The Court, as requested by the party or ex officio, shall remedy the defects of the procedure, assuring, within the investigative nature of the process, the effectiveness of the adversarial principle.

When unconstitutionality is declared by way of exception or ex officio (paragraph 2 of Article 509 and paragraph 2 of Article 510 of the General Code of Procedure) the procedure shall only be suspended once the acting Judge declares the adoption of interim measures mentioned in this Law, or in its case, leaving record of the grounds if considering them unnecessary.

## **CHAPTER SIX - LIABILITIES**



## Article 31

(Administrative Liability). -

The following shall mean wilful misconduct without prejudice of the civil and criminal liabilities that may correspond:

A) To refuse to submit information not classified as reserved or confidential.

B) The omission or partial submission of the required information, acting with negligence, malice, and wilful misconduct.

C) To allow the unjustified access to information classified as reserved or confidential information.

D) The use, subtraction, concealment, disclosure or total or partial undue alteration of the information under its custody or to which it may access for functional reasons.

## **CHAPTER SEVEN – TRANSITORY PROVISIONS**

### Article 32

(Term for the implementation of websites). Websites shall be implemented by the regulated parties within one year as from the publication of this Law. Its regulations shall govern the technical guidelines that enable the homogeneity, interaction, and easy access of this information.

References to Article

### Article 33

(Classification of the information). By July 31, 2012, all regulated parties shall issue the list with all the information which, to such date, is classified as reserved, provided that it is included in any of the exceptions mentioned in Article 9 of this Law.

By the same date, the information that is not subject to these exceptions will be declassified.

As from such date, any information classified as reserved, that is 15 years old or more, shall be declassified



and opened freely to the public. (\*)

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(\*) **Notes:**

**Wording provided by:** Law N° 18,719 of Dec. 27, 2010, Article [150](#).

**ORIGINAL TEXT:** Law N° 18,381 of Oct. 17, 2008, Article [33](#).

[Article 34](#)

(Adaptation term for regulated parties). The parties regulated by this Law shall have a four-year term to adapt their records. During such period, these shall not be subject to penalties if refusing to provide access, based on the impossibility of finding the information.

(\*) **Notes:**

**Wording provided by:** Law N° 18,719 of Dec. 27, 2010, Article [151](#).

**ORIGINAL TEXT:** Law N° 18,381 of Oct. 17, 2008, Article [34](#).

[Article 35](#)

(Term for the Regulation). -

This law shall be regulated within a term of one hundred and twenty days as of its publication.

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