



RIGHT2KNOW

What is wrong with the **Secrecy** Bill?

A briefing document for members of the public attending NCOP hearings

Ask the questions! Demand the answers!

Problem The government says the secrecy bill is designed to secure South Africa against foreign threats. Yet we are not at war with our neighbours and the public has not been told about any threat to our security from foreign countries.

Ask **Why do we need this Bill? What threats are we facing?**

Problem The government says that the classification of documents has been restricted to security services. But the Bill still lets the Minister add any organ of state to the list of bodies that can classify information.

Ask **Why does the Minister need this power?**
The bill is only supposed to be about [redacted] **classification of documents that relate to national security.** [redacted]
What other government bodies have documents that relate to national security?

Problem The Promotion of Access to Information Act (PAIA) currently regulates the right to information. This law was introduced to give effect to the right to information in the Constitution. It sets out the only legal restrictions on access to information from the government. Any other law that tries to further restrict your right to information is currently invalid. The Secrecy Bill will override PAIA, creating a new way for government to refuse access to information.

Ask

How will the bill affect my right to information under PAIA?

The Constitution gives us the right to information from public bodies. This right is already restricted by the exemptions set out in PAIA. What basis does the government have for restricting our right even further?

PAIA already protects information that may prejudice national security, defence and international relations from being released to the public. Why is it necessary for the secrecy bill to extend this to all classified documents? You are adding a new reason for government to refuse our communities information.

Problem

PAIA requires public bodies to respond to requests within 30 days. The secrecy bill includes no timeline for responding to requests for access to classified information, unless the public interest override applies. If the public body refuses you access to classified information you can appeal to the Minister but this right does not apply if the public body fails to respond at all.

Ask

Why should the government get longer to consider the release of classified documents? What if the government doesn't respond to my request for access to classified information at all?

Problem

The bill says you can be put in jail for 5 years if you have a classified document and don't return it to SAPS. This applies even if you don't share the document with anyone.

Ask

How would me having the document threaten national security?

Why should I be jailed for as long as some rapists for doing nothing at all with a document just because it has a classified stamp on it?

Problem The bill says you can be put in jail for 10 years if you have a document that relates to a state security matter and don't return it. This applies even if you don't share the document with anyone.

Ask How would me having the document threaten the security of the state?
Why should I be jailed for as long as some people that kill others for doing nothing at all?

Problem You can be jailed for 5 or 10 years just for holding onto a document. But if a public official alters or erases information on purpose they can only be jailed for a maximum of 3 years.

Ask Why should I be held more responsible than a public official that is trained and entrusted with the states information?

Problem If the government charges you for having or sharing a classified document or document that contains a state security matter, you cannot defend yourself. You cannot argue that you held or shared the document because the document contained information which was in the public's interest to know. It is also not a defence if the document had been illegally classified. So if the document was classified to hide corruption you could still be charged and put in jail, even though the bill says the government cannot classify documents to hide corruption.

Ask Why will the government not allow the public to defend their decision to hold onto or share a document?
How can the government jail its citizens for up to 25 years with no opportunity to defend themselves? Even people who kill others have defences available to them.

This briefing document was prepared by the Right 2 Know Campaign Gauteng Working Group. For more information, or to get involved, contact the Right 2 Know Gauteng Working Group Organiser, Bongani Xezwi on 071 043 2221.

We have the right to know! Let the truth be told!

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