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IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2026-238536**

In the matter between:

LIBERTY FIGHTERS NETWORK, REYNO DAWID DE BEER N.O. Plaintiff / Applicant / Appellant

and

MINISTER OF HOME AFFAIRS, DR LEON AMOS SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE, DIRECTOR-GENERAL: DEPARTMENT OF HOME AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O., OR HIS SUCCESSOR IN TITLE Defendant / Respondent

Notice of Motion (Long Form)

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ELE BY:  ALLY SIGNED

**Registrar of The High Court,
Western Cape Division, Cape
Town**

**IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN**

CASE NO: _____

In the matter between:

LIBERTY FIGHTERS NETWORK

(A voluntary association without gain and common-law
universitas)

REYNO DAWID DE BEER N.O.

(Cited *nomine officio* as President and executive
office-bearer of the First Applicant)

And

**MINISTER OF HOME AFFAIRS, DR LEON AMOS
SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE**

**DIRECTOR-GENERAL: DEPARTMENT OF HOME
AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O.,
OR HIS SUCCESSOR IN TITLE**

First Applicant

Second Applicant

First Respondent

Second Respondent



NOTICE OF MOTION

KINDLY TAKE NOTICE that the Applicants intend, on a date to be arranged with the Registrar, to apply to this Court for an order in the following terms:-

1. Confirming, alternatively declaring for purposes of these proceedings, that the First Applicant, Liberty Fighters Network (“LFN”), is a voluntary association without gain and common-law *universitas* capable of litigating in its own name; and that it may place its case before the Court through its President and executive office-bearer, the Second Applicant, subject to the Court’s inherent control of its process.
2. Alternatively to Item 1 insofar as prior leave is considered necessary, granting the Second Applicant leave to represent the First Applicant in these proceedings, without abandoning the Applicants’ primary constitutional contention concerning institutional audience.
3. Confirming that the First Applicant acts, as applicable, in its own interests, as an association acting in the interests of its members, in the interests of persons and groups whose constitutional rights to privacy, dignity and lawful administrative action are affected or threatened, and in the public interest in terms of section 38(c), (d) and (e) of the *Constitution of the Republic of South Africa, 1996* (“*Constitution*”).
4. To the extent that it is necessary for any review ground directed at Government Notice 6336 of 23 June 2025, regulation 15(d), or an identified administrative decision antecedent thereto, extending the period contemplated in section 7(1) of



the *Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)* (“PAJA”) under section 9 thereof; alternatively, insofar as legality review is applicable, overlooking any delay in the interests of justice.

5. Declaring that regulation 15(d) is a tariff provision and does not itself confer a substantive entitlement upon any recipient to obtain population-register information beyond, or independently of, sections 6 and 21 of the *Identification Act, 1997 (Act No. 68 of 1997)* (“*Identification Act*”), the *Protection of Personal Information Act, 2013, (Act No. 4 of 2013)* (“*POPIA*”), and the *Constitution*.



6. Declaring that payment or tender of a prescribed fee under regulation 15(d), without more, cannot establish compliance with section 21(2) or section 21(3), and cannot substitute for a lawful decision that the requested access falls within the statutory class, purpose, restrictions, conditions, exclusions and directives applicable to it.
7. Declaring, in terms of section 172(1)(a) of the *Constitution*, that sections 21(2)(b), 21(2)(c) and 21(2)(d) of the *Identification Act*, read with section 21(3), are inconsistent with the *Constitution* and invalid to the extent that they authorise the systematic furnishing or verification of sensitive population-register information without constitutionally adequate legislative or prescribed safeguards capable of governing, at least, lawful purpose, necessity, proportionality, scope and data minimisation, recipient qualification, security, auditability, onward use, retention and destruction, accountability and effective redress.

8. Alternatively to Item 7, declaring that sections 21(2)–(3), properly interpreted in accordance with sections 7(2), 14, 36 and 39(2) of the *Constitution*, do not authorise systematic real-time, batch or equivalent furnishing of population-register information unless the power is exercised within an adequate and ascertainable framework of prescribed restrictions, conditions, exclusions and directives, read together with the applicable safeguards of *POPIA*.
9. Declaring that the *Identification Regulations, 1998*, including regulation 15(d), are constitutionally and/or statutorily deficient and unlawful to the extent that they facilitate or contemplate systematic real-time and batch furnishing of population-register information under section 21(2) without prescribing, or otherwise lawfully incorporating, an adequate operational safeguard framework contemplated by section 21(2) and required by the *Constitution*.
10. Reviewing and setting aside under sections 6(2)(a), 6(2)(b), 6(2)(e), 6(2)(f), 6(2)(h) and/or 6(3) of *PAJA*, alternatively under the principle of legality, the First Respondent's decision reflected in Government Notice 6336 of 23 June 2025 insofar as regulation 15(d) was promulgated or is administered as an operative access mechanism without adequate regard to the statutory and constitutional safeguards governing section 21(2); the precise formulation of this relief to be supplemented under Uniform Rule 53(4) after production of the record.
11. Reviewing and setting aside under *PAJA*, alternatively legality, any standing policy, class authorisation, access rule or implementation decision of the Second Respondent identified from the Rule 53 record that permits population-register



information to be furnished in a manner inconsistent with sections 6 and 21 of the *Identification Act*, *POPIA*, section 14 of the *Constitution* and the principle of legality.

12. Declaring that the First Respondent's continuing failure, insofar as established on the record, to prescribe or lawfully establish the restrictions, conditions, exclusions and directives necessary for constitutionally compliant systematic furnishing of population-register information is unlawful and inconsistent with sections 7(2), 14, 33, 36, 195 and 237 of the *Constitution*, alternatively constitutes reviewable failure to take a decision in terms of section 6(2)(g) and/or 6(3) of *PAJA*.
13. In the event that Item 9 is granted, suspending the declaration of invalidity for three (3) months, or such period as the Court considers just and equitable, to enable the First Respondent to cure the constitutional defect, subject to such interim safeguards as may be determined after the Rule 53 record and supplementary papers have been delivered.
14. Directing that any order of constitutional invalidity concerning the *Identification Act* be referred to the Constitutional Court for confirmation under sections 167(5) and 172(2)(a) of the *Constitution*, read with section 15 of the *Superior Courts Act, 2013* (Act No. 10 of 2013) ("SC Act") and the applicable *Constitutional Court Rules*.
15. Pending any suspension period or confirmation process, granting such temporary relief under section 172(2)(b) of the *Constitution* as may be necessary to protect affected rights without disrupting verification that is demonstrably lawful, necessary, proportionate and subject to constitutionally adequate safeguards, with



the Applicants entitled to formulate precise temporary safeguards after receipt of the Rule 53 record.

16. Directing the First and Second Respondents, if constitutional or regulatory invalidity is established, to file within sixty (60) court days after the operative order a report under oath setting out the steps, responsible structures and projected timetable by which the identified defect will be remedied, with the Applicants entitled to respond within fifteen (15) court days and the Court retaining supervisory jurisdiction only to the extent considered just and equitable.
17. Directing that completed past verification transactions are not invalidated merely by reason of a prospective or suspended declaration of invalidity, without prejudice to the rights of any person to challenge a particular past disclosure, verification or processing operation on its own facts and under applicable law.
18. Ordering the Respondents, jointly and severally, the one paying the other to be absolved, to pay the Applicants' costs only if they unsuccessfully oppose the constitutional and public-law relief, subject to the *Biowatch* principle; and making no adverse costs order against the Applicants if the application is *bona fide* but unsuccessful, save in the event of conduct justifying a departure from the ordinary constitutional costs rule.
19. Granting further and/or alternative relief.



KINDLY TAKE NOTICE FURTHER that the accompanying Founding Affidavit of **REYNO DAWID DE BEER**, together with the annexures identified therein, will be used in support of this application.

KINDLY TAKE NOTICE FURTHER that a notice in terms of Uniform Rule 16A accompanies these papers because the application squarely raises the constitutional validity and constitutional interpretation of national legislation and subordinate legislation.

KINDLY TAKE NOTICE FURTHER that, in terms of Uniform Rule 53(1)(b), the **First and Second Respondents** are called upon, jointly where the record is common and **severally** where each holds distinct material, within fifteen (15) days after receipt of this Notice of Motion, to dispatch to the Registrar the complete record of the following decisions, proceedings and continuing administrative arrangements, together with such reasons as they are by law required or desire to give:

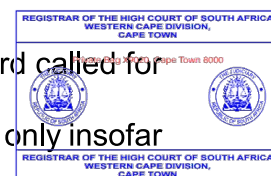


- (a) the First Respondent's decision to make the Fourteenth Amendment of the Identification Regulations, 1998, under Government Notice 6336 of 23 June 2025, insofar as it substituted regulation 15(d) and prescribed fees for real-time and batch furnishing of information from the population register;
- (b) the formulation, adoption, approval and continued application of any general policy, directive, criterion, standard, operating rule, access framework or class authorisation used by the Second Respondent to furnish or permit verification of population-register information under sections 6 and 21(2)–(3) of the *Identification Act*, including through real-time, batch, online verification service, application-programming-interface or functionally equivalent access;

- (c) the determination, interpretation and application by the Respondents of the “restrictions, conditions, exclusions, directives and fees” contemplated in section 21(2), and of the statutory threshold in section 21(3); and
- (d) any presently operative decision or administrative arrangement by which external private or non-State recipients are admitted to, categorised for, or granted systematic access to population-register verification services.

KINDLY TAKE NOTICE FURTHER that, for purposes of identifying the record called for under Uniform Rule 53(1)(b), the Applicants contend that the record includes, only insofar as it formed part of, informed, evidences or explains the decisions and arrangements under review, all non-privileged memoranda, submissions, recommendations, minutes, approvals, consultations, correspondence, terms and conditions, onboarding criteria, material data-sharing or access-framework instruments, relevant privacy and security assessments, relevant *POPIA* prior-authorisation material where applicable, and decision-making statistics or reports; provided that individual data-subject records and transactional logs not material to the impugned decisions are not sought merely as discovery.

KINDLY TAKE NOTICE FURTHER that, if legal privilege is claimed over any document forming part of the Rule 53 record, the Applicants require a schedule sufficiently identifying the document, its date, general nature and the legal basis of privilege without disclosing privileged substance; and contend that genuinely security-sensitive or third-party confidential information should, where necessary, be dealt with by lawful redaction,



an appropriate confidentiality arrangement or further direction of the Court rather than by withholding decision-relevant material wholesale.

KINDLY TAKE NOTICE FURTHER that, upon dispatch of the record, Uniform Rule 53(3) requires the Registrar to make it available to the Applicants; and the Applicants intend, within ten (10) days after the record is made available, to exercise their rights under Uniform Rule 53(4), including by delivering a notice and supplementary affidavit and, where competent, amending, adding to or varying the relief sought and the grounds upon which review is sought.

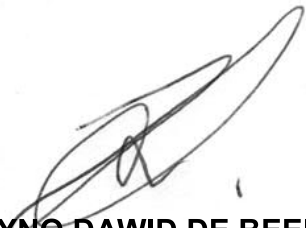


KINDLY TAKE NOTICE FURTHER that the Respondents are called upon, if they desire to oppose, to comply with the timetable in Uniform Rule 53(5): notice of intention to oppose must be delivered within fifteen (15) days after receipt of this Notice of Motion or any amendment thereof, and any answering affidavits must be delivered within thirty (30) days after expiry of the period referred to in Uniform Rule 53(4). The Applicants' replying affidavit, if any, will be governed by Uniform Rule 6, read with Uniform Rule 53(6).

KINDLY TAKE NOTICE FURTHER that, if no notice of intention to oppose is delivered within the applicable period, the Applicants may approach the Registrar for enrolment on the unopposed roll in accordance with the Uniform Rules and the applicable Western Cape Division Practice Directives.

SIGNED AT CAPE TOWN ON THIS 28TH DAY OF SEPTEMBER 2026.

Notice of Motion, Page 10



REYNO DAWID DE BEER

Nomine officio as Second Applicant and for First Applicant

Liberty Fighters Network

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**TO: REGISTRAR OF THE HIGH COURT
WESTERN CAPE DIVISION, CAPE TOWN**

AND TO: DR LEON AMOS SCHREIBER N.O.

FIRST RESPONDENT

Minister of Home Affairs

120 Plein Street, 8th Floor, Room 840

CAPE TOWN

Phone: 012 432 6605 / 021 469 6500

Fax: 012 432 6675 / 021 461 4191

Email(1): ministerialqueries@dha.gov.za

Email(2): communications@dha.gov.za

Email(3): Anthula.higgins@dha.gov.za

Email(4): Carli.vanwyk@dha.gov.za

AND TO: **LIVHUWANI TOMMY MAKHODE N.O.**

SECOND RESPONDENT

Director-General: Department of Home Affairs

Hallmark Building

230 Johannes Ramokhoase Street

Pretoria, 0001

Email(1): hacc@dha.gov.za

Email(2): communications@dha.gov.za



AND TO: **STATE ATTORNEY, CAPE TOWN**

4th Floor, 22 Long Street

Cape Town, 8001

Email(1): FMbeki@justice.gov.za

Email(2): Roisaacs@justice.gov.za

Email(3): Lkelly@justice.gov.za

[For service in terms of section 2(2) of the *State Liability Act, 1957*, and/or as the law may require.]

POTENTIALLY INTERESTED PERSONS — FOR INFORMATION AND POSSIBLE INTERVENTION

The persons and bodies listed *infra* are not cited as respondents. No substantive relief is sought against them in their own right. A complete copy of the issued application will be transmitted to them by electronic mail as a procedural safeguard so that each may, if so advised, seek joinder, intervention or admission as amicus curiae:-

1. MINISTER OF FINANCE

Email(1): MINREG@treasury.gov.za

Email(2): mary.marumo@treasury.gov.za

Email(3): Mfuneko.Toyana@treasury.gov.za

2. INFORMATION REGULATOR (SOUTH AFRICA)

Email: enquiries@infoeregulator.org.za

3. FINANCIAL INTELLIGENCE CENTRE

Email: fic_feedback@fic.gov.za

4. BANKING ASSOCIATION SOUTH AFRICA

Email: banking@banking.org.za

5. ASSOCIATION FOR SAVINGS AND INVESTMENT SOUTH AFRICA (ASISA)

Electronic notice: info@asisa.org.za

6. ASSOCIATION OF COMMUNICATIONS AND TECHNOLOGY NPC (ACT)

Email: ceo-office@actforsa.co.za



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AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O.,
OR HIS SUCCESSOR IN TITLE**

First Applicant

Second Applicant

First Respondent

Second Respondent



FOUNDING AFFIDAVIT

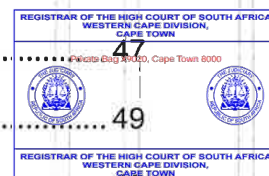
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I, the undersigned,

REYNO DAWID DE BEER

Declare under oath as follows:

INTRODUCTION AND CAPACITY

1. I am an adult South African citizen and the incumbent President, head and chief directing officer of the First Applicant, Liberty Fighters Network ("LFN"). I am cited *nomine officio* as the Second Applicant and depose to this affidavit in that institutional capacity and, where expressly indicated, in my personal capacity.

[Handwritten signature] MN

2. LFN is a voluntary association without gain and a common-law *universitas* possessing legal personality and perpetual succession independently of its individual members. It is capable of acquiring rights and obligations and litigating in its own name.
3. The facts deposed to herein are, unless the context indicates otherwise, within my personal knowledge or derived from records in LFN's possession which I have considered. Where information is derived from public legislation, regulations, Government Gazettes, official publications or reported judgments, I identify the source and make the legal submissions that follow from it. Legal conclusions remain for the Court.
4. The annexures identified herein are, to the best of my knowledge, true copies of the documents they purport to be.
5. This is a non-urgent application. The Applicants invoke Uniform Rule 53, read with *PAJA*¹ and, in the alternative where conduct does not constitute administrative action, the constitutional principle of legality. The principal constitutional provisions relied upon include sections 1(c), 7(2), 10, 14, 33, 34, 36, 38, 39(2), 167(5), 172, 195 and 237 of the *Constitution*.²



¹ Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)

² Constitution of the Republic of South Africa, 1996

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PURPOSE AND ESSENCE OF THE APPLICATION

6. This case concerns a narrow but foundational question: on what constitutionally lawful terms may the State permit information held in the national population register to be furnished, queried or verified by State and non-State recipients at scale?
7. The *Identification Act*³ begins from secrecy. Section 21(1) protects information acquired in the execution of functions under the Act from publication or communication, subject to limited statutory exceptions. Section 21(2)  the authorises the Director-General to furnish information to broad categories of recipients, including State bodies, banks and insurers, and "*any other organisation, body, society or institution*", subject to prescribed restrictions, conditions, exclusions, directives and fees. Section 21(3) adds a purpose threshold.
8. The Applicants do not contend that every furnishing of population-register information is unconstitutional. Nor do they contend that identity verification is inherently unlawful. Verification can serve legitimate purposes including the protection of rights, prevention of fraud, service delivery and the integrity of civic records.
9. The complaint is structural. A statutory gateway capable of supporting routine, systematic, real-time and batch access to highly sensitive civic identity information

³ Identification Act, 1997 (Act No. 68 of 1997)

 MN

must be bounded by sufficiently clear law and adequate safeguards. A fee schedule cannot do the constitutional work of an access-control framework.

10. The present regulatory scheme is especially important because regulation 15(d), as substituted with effect from 1 July 2025, expressly prices real-time and batch furnishing of population-register information.⁴ It does so “*in accordance with section 21(2)*”, which correctly means the tariff cannot lawfully enlarge the Act. But the existence of scaled access makes the quality of the underlying safeguards a present, not theoretical, issue.



11. The relief is deliberately pleaded in alternatives. The Court may conclude that the defect lies in section 21 itself; alternatively that section 21 is capable of a constitutionally compliant interpretation but the Minister failed adequately to prescribe the contemplated safeguards; alternatively that particular regulations, policies or implementation decisions are unlawful. The Rule 53 record is indispensable to determine which juridical level is defective and what remedy is just and equitable.

⁴ Regulations made under section 22 of the *Identification Act*, published under Government Notice No. R. 978 of 31 July 1998, as amended by Government Notice Nos. R. 1014 of 07 August 1998, R. 275 of 01 April 2000, R. 329 of 03 April 2001, R. 1213 of 19 August 2003, R. 432 of 31 March 2004, R. 605 of 14 May 2004, R. 701 of 11 June 2004, R. 321 of 01 April 2005, R. 474 of 19 May 2006, R. 65 of 28 January 2008, R. 342 of 27 March 2009, R. 25 of 19 January 2011, R. 1029 of 08 December 2011, and R.6336 of 23 June 2025 (*Identification Regulations*)

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CITATION OF THE PARTIES

12. The First Applicant is LFN, a voluntary association without gain and common-law *universitas*. Its principal constitutional objects include the protection and advancement of fundamental rights, access to justice and public-interest accountability.
13. I am the Second Applicant, cited *nomine officio* as LFN's President and executive office-bearer. I do not hold myself out as an attorney, advocate or practising legal practitioner. I act in my disclosed institutional office and receive and expect no fee, commission, gain or reward for doing so.
14. The First Respondent is Dr Leon Amos Schreiber N.O., cited in his official capacity as Minister of Home Affairs, or his successor in title. The Minister administers the *Identification Act* and exercised the regulation-making power under section 22 when Government Notice 6336 of 23 June 2025 was made.
15. The Second Respondent is Livhuwani Tommy Makhode N.O., cited in his official capacity as Director-General: Department of Home Affairs, or his successor in title. The *Identification Act* assigns material functions and powers concerning the population register to the Director-General, including the furnishing of information under section 21(2).
16. The Applicants cite only the Minister and Director-General as respondents because the substantive relief is directed at the constitutionality, lawfulness and administration of the statutory and regulatory regime for which they are



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respectively responsible. Potentially interested bodies are instead given actual electronic notice, subject to the joinder safeguards addressed *infra*.

JURISDICTION AND SERVICE

17. This Court has jurisdiction in terms of section 21(1) of the SC Act.⁵ The First Respondent maintains and exercises official functions through an office in Cape Town, while the Department of Home Affairs, for which the Second Respondent bears statutory and administrative responsibility, maintains and operates offices and branches throughout the Western Cape, including within Cape Town.
18. The impugned statutory, regulatory and administrative regime is implemented and administered through the Department nationally, including within the territorial jurisdiction of this Court, where population-register information is processed and utilised in the provision of identification and verification services. The impugned regulation and administrative arrangements are furthermore national in their operation and produce direct legal and practical effects upon persons within the Western Cape.
19. Accordingly, the Respondents are present and exercise relevant public functions within this Court's territorial jurisdiction, and material parts of the cause giving rise to this application arise and operate within this Division.



⁵ Superior Courts Act, 2013 (Act No. 10 of 2013)

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20. The Department's national head office is situated at Hallmark Building, 230 Johannes Ramokhoase Street, Pretoria. Service of the issued process will be effected in accordance with the Uniform Rules and section 2 of the *State Liability, 1957 (Act No. 20 of 1957)*. A copy thereof will be served upon the head of the Department at its national head office and upon the Office of the State Attorney having jurisdiction in respect of proceedings issued from this Court, with the latter service in any event to occur within seven (7) days as contemplated in section 2(2) of the *State Liability Act*.⁶ Electronic courtesy copies will additionally be transmitted where appropriate.



21. The First Respondent is the responsible national executive authority for purposes of Uniform Rule 10A. His citation ensures that the constitutional challenge to the *Identification Act* and *Identification Regulations* is not determined in the absence of the executive authority responsible for their administration.

STANDING, AUTHORITY AND REPRESENTATION

22. LFN derives its juridical personality from the common law read with its written Constitution. No statutory incorporation or governmental registration is constitutive of that personality. The LFN Constitution comprises 51 pages and, to avoid burdening these papers with internal provisions irrelevant to the present proceedings, only a redacted copy containing the provisions material to LFN's

⁶ State Liability Act, 1957 (Act No. 20 of 1957)

 MN

juridical personality, governance and authority to institute these proceedings is attached hereto marked "RDB1".

23. Although LFN has legal personality separate from mine, a *persona ficta* can form and express juridical will only through the natural persons constituting its organs. In my *nomine officio* capacity I am therefore not an external commercial agent retained to conduct LFN's affairs, but the constitutional office through which the powers assigned to its President are exercised.



24. The Applicants distinguish four matters which have on occasion been conflated: LFN's legal personality and litigation capacity; its internal authority to institute these proceedings; its *locus standi* to seek the particular relief; and my right of audience as its President and representative officer. None is synonymous with another.
25. Article 38(1)(e) of the LFN Constitution makes the President the head and chief directing officer of LFN and empowers that office, in consultation with the National Working Committee ("NWC"), to institute or defend legal proceedings.
26. I confirm under oath that I consulted the NWC concerning these proceedings, that the requisite concurrence exists, and that these proceedings are instituted and prosecuted at LFN's instance. The LFN Constitution prescribes no particular meeting, minute, ballot, written resolution or separate confirmatory affidavit as the constitutive form of such consultation.


MN

27. Any further internal record or confirmatory material produced is accordingly evidentiary and *ex abundanti cautela*. It does not create authority that otherwise did not exist under the LFN Constitution.
28. If a Respondent genuinely disputes that these proceedings are at LFN's instance, that challenge concerns internal litigation authority and not *locus standi*. It must be raised and determined through the recognised authority procedure *via Uniform Rule 7*, and authority may be proved *aliunde*, consistently with *Kalagadi Manganese (Pty) Ltd*⁷ and *Unlawful Occupiers of the School Site*.⁸
29. LFN acts under section 38(d) in the public interest. The subject matter concerns the lawful handling of population-register information across the Republic and the structural safeguards governing a statutory identity system. Public-interest standing is conferred by the *Constitution*; LFN does not purport to hold a private mandate from "the public".
30. LFN further acts under section 38(e) as an association in the interests of its members. Its members, as South African citizens and residents whose identifying particulars are or may be held in the population register, are directly exposed to the architecture challenged herein. It is neither necessary nor proportionate to



⁷ *Kalagadi Manganese (Pty) Limited & Others v Industrial Development Corporation of SA Limited & Others* (1019/2024) [2026] ZASCA 111 (25 August 2026)

⁸ *Unlawful Occupiers of the School Site v City of Johannesburg* (036/2004) [2005] ZASCA 7; [2005] 2 All SA 108 (SCA); 2005 (4) SA 199 (SCA) (17 March 2005)

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expose the private information of every member to establish that representative *nexus*.

31. LFN additionally relies on section 38(c) insofar as it acts in the interests of affected groups and classes of data subjects whose privacy and administrative-law rights may be implicated by systematic population-register verification.
32. I do not hold myself out as an attorney, advocate or practising legal practitioner. In relation to these proceedings, I act in my disclosed office as President and representative officer of LFN and separately I receive and expect no fee, commission, gain or reward for doing so.
33. LFN's primary contention is that the common law should recognise the right of the gratuitous institutional head of a public-interest common-law *universitas* to place that *universitas*'s own case before a superior court, subject to the Court's inherent control and absence of demonstrated prejudice or abuse.
34. To the extent that *Manong & Associates (Pty) Ltd v Minister of Public Works and Another* is regarded as governing these materially different facts, LFN contends that it falls to be distinguished and, insofar as necessary, the common law developed consistently with sections 34, 38, 39(2) and 173 of the *Constitution* in the statutory setting created by section 33 of the *Legal Practice Act, 2014 (Act No. 28 of 2014)*.



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MN

35. Alternatively and *ex abundanti cautela*, if prior leave is considered necessary, LFN seeks leave under the residual discretion recognised in *Manong*. This alternative is advanced without abandoning the primary constitutional contention.

NARROW SCOPE AND PROCEDURAL POSTURE

36. The Applicants ask the Court to keep three related questions separate. First: what does section 21 lawfully authorise? Secondly: what safeguards have in fact been prescribed or adopted? Thirdly: how is the Department presently implementing systematic verification access?
37. The Applicants do not seek in these proceedings to prohibit all identity verification, to prevent the compilation or maintenance of the population register, or to disable legitimate anti-fraud and public-service functions.
38. The Applicants do not presently seek final relief against the draft Digital Identity amendments published under Government Notice R.7428 of 4 May 2026 merely because they were published for public comment. Those draft provisions form factual context and explain why LFN examined the existing regime more closely. If any final amendment is promulgated and materially affects this case, its legal significance can be addressed on a proper evidentiary foundation, including under Uniform Rule 53(4) if competent.



[Handwritten signature]
MN

39. The challenge is instead anchored in the current *Identification Act*, the existing *Identification Regulations* and the current or continuing decisions and administrative arrangements that govern access to population-register information.
40. The Applicants also do not plead that *POPIA*⁹ is irrelevant. *POPIA* is central. The question is whether the existence of a general data-protection statute cures or replaces the constitutional requirement that the rights-limiting power conferred by section 21 itself be sufficiently guided, structured and administered.



THE STATUTORY AND REGULATORY ARCHITECTURE

41. The population register is a national civic record. Section 8 of the *Identification Act* provides for a wide range of identifying and civic-status particulars, including identity numbers, names, dates and places of birth, residential information, citizenship-related particulars, marital status, photographs, fingerprints, travel-document particulars and other prescribed or lawfully determined particulars.
42. Section 6 regulates access to and alteration of the population register and places control in the hands of the Director-General except where access is specifically authorised under the Act.

⁹ Protection of Personal Information Act, 2013 (Act No. 4 of 2013)

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43. Section 21(1) establishes the confidentiality baseline by restricting publication or communication of information acquired in the execution of functions under the Act, subject to statutory exceptions.
44. Section 21(2)(a) permits furnishing to a person or institution upon the written instruction of the person whose particulars are sought. That route is data-subject-directed and is not the principal target of the constitutional attack.
45. Sections 21(2)(b) to (d), by contrast, extend the power to categories of recipients including State departments, municipalities or statutory bodies; insurers and banks; and any other organisation, body, society or institution, subject to such restrictions, conditions, exclusions, directives and fees as may be prescribed.
46. Section 21(3) is an important limitation and the Applicants do not ignore it. It provides, in substance, that information may only be furnished to an organisation, body, society or institution when required for the exercise or protection of rights, in the public interest, or for compiling a voters' roll.
47. The problem is that those purpose formulations remain broad. Neither section 21(2) nor section 21(3) itself determines which fields may be released for which class of recipient; what necessity or proportionality test applies; whether a less intrusive verification result should be preferred over disclosure; what recipient-qualification and audit rules apply; how onward use is controlled; what retention period applies; or what procedural remedy is available to a data subject affected by an erroneous or unlawful verification.



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48. Section 21(2) appears to anticipate further normative content by making the furnishing power subject to prescribed restrictions, conditions, exclusions, directives and fees. Section 22 empowers the Minister to make regulations for the implementation of the Act and contemplates prescribed fees with the concurrence of the Minister of Finance.
49. The Fourteenth Amendment of the *Identification Regulations*, Government Notice 6336 of 23 June 2025, substituted regulation 15(d). The amended tariff expressly caters for real-time furnishing at R10.00 per transaction and batch furnishing at R1.00 per verification field requested, while State departments, municipalities and statutory bodies are not charged a fee. It came into operation on 1 July 2025.
50. Regulation 15(d) expressly says that furnishing is “*in accordance with section 21(2)*”. That phrase is legally significant. It demonstrates that regulation 15(d) should not be read as a freestanding access right. The tariff presupposes lawful authority under section 21; it cannot supply the missing legal conditions for obtaining the information.
51. The Applicants' present concern is that the *Identification Regulations*, as currently constituted, do not appear to contain a comprehensive, ascertainable safeguard framework proportionate to systematic real-time and batch verification. The Rule 53 record is needed because some restrictions or directives may exist in internal instruments not apparent on the face of the *Identification Regulations*.



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FACTUAL AND PROCEDURAL BACKGROUND

52. In November 2025 I prepared an LFN discussion paper titled "*To Digital ID, or Not to Go Digital, That is the Question*". It recognised potential benefits of digital identity technology, including convenience, fraud prevention and improved access to services, while raising concerns about privacy, data concentration, surveillance, exclusion, function creep and cybersecurity. This document can be provided to the Court or any party upon request.
53. On 4 May 2026 the First Respondent published draft amendments to the *Identification Regulations* under Government Notice R.7428 in Government Gazette 54610 for public comment. An official Departmental statement dated 5 May 2026 described the proposed Digital Identity system as optional, with physical products intended to continue in parallel, and stated that the proposed framework was intended to support biometric remote verification and public-private interoperability.
54. LFN did not respond with a blanket objection to digital technology but, on 25 May 2026, submitted a detailed and holistic comment and objection to the Department's Chief Director: Legal Services, Adv A M Malakate. Among other matters, LFN expressly drew attention to the interaction between the proposed digital architecture and existing regulation 15(d), warning that the existing real-time and batch data-access mechanism required proper subordination to privacy and consent safeguards. LFN thereafter promptly raised the deeper section 21 concern



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directly with the Minister, seeking relevant information and affording the executive an opportunity to consider and correct the position before resorting to litigation.

55. The submission was transmitted by email on 26 May 2026, and its receipt was subsequently acknowledged by the Chief Director on 11 June 2026. The submission, transmitting email and read receipt are attached as Annexures "RDB2" to "RDB4".

56. During that review LFN identified a deeper issue in the existing statutory architecture. Section 21(1) establishes secrecy, yet section 21(2) creates broad gateways for furnishing data and regulation 15(d) prescribes systematic real-time and batch verification. LFN could not identify, from the published *Identification Regulations* alone, the full architecture of restrictions, conditions, exclusions and directives contemplated by section 21(2).

57. LFN accordingly addressed a formal constitutional concern and demand to the First Respondent during May 2026. The correspondence requested, among other things, the legal basis on which the Department currently furnishes population-register information; the restrictions and directives applied; categories of entities receiving systematic access; relevant policies and access frameworks; applicable *POPIA* prior-authorisation material where required; privacy and cybersecurity assessments; and the safeguards relied upon against misuse, profiling, cross-linking and unlawful disclosure.



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58. The correspondence further placed the First Respondent on notice that, absent an adequate response, LFN intended to approach the High Court for appropriate constitutional and review relief. The correspondence dated 28 May 2026, the email by which it was transmitted, and confirmation of its receipt by the Minister's Communication Officer, Ms Carli van Wyk, are annexed hereto marked "RDB5" to "RDB7", respectively. Notwithstanding confirmed receipt by the Minister's office, no response has been forthcoming.



59. The present application is brought after that engagement and after the Applicants' concern crystallised through the 2026 consultation process. The application is deliberately non-urgent because the Applicants seek a complete Rule 53 record, fair participation by interested persons, and a remedy calibrated to avoid unnecessary disruption of lawful verification services.

THE RULE 53 RECORD AND THE DUTY OF CANDOUR

60. The validity of a rights-affecting administrative system cannot fairly be adjudicated only from its public-facing tariff. The Court requires the actual decision-making material which shows what the Minister and Director-General understood section 21 to authorise, what safeguards they considered necessary, and how access is operationally granted and controlled.

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61. In *Helen Suzman Foundation*¹⁰ the Constitutional Court emphasised the accountability function of the Rule 53 record: review must be conducted on the material relevant to the exercise of public power rather than on a curated litigation version of the reasons.
62. The record sought is not a disguised discovery exercise. It is confined to material relevant to the decisions, standing policies and general access arrangements under review. The Applicants do not seek every individual verification request, every data subject's file or every system log merely because it exists.
63. For the regulation-making decision, the record should include the documents, recommendations, submissions, consultations and approvals considered when regulation 15(d) was substituted, including the basis for the real-time and batch model and any privacy, security or constitutional assessment considered by the First Respondent.
64. For the Director-General's implementation decisions, the record should include the operative general policies, criteria, directives, authorisations and access frameworks that determine which external recipients may connect to or use systematic verification; which data fields or outputs they may receive; how section 21(3) is evaluated; and what controls govern retention, audit, onward use and termination of access.



¹⁰ *Helen Suzman Foundation v Judicial Service Commission* [2018] ZACC 8; 2018 (4) SA 1 (CC)

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65. If the Department relies upon *POPIA* compliance, prior authorisation, operator agreements, security assessments, privacy-impact assessments or contractual controls as part of the justification for the current regime, those decision-relevant materials are directly relevant to the review. The Applicants do not assume that prior authorisation under sections 57 and 58 of *POPIA* is required for every transaction; the issue is whether it was required and obtained for particular classes of processing where the statutory trigger is met.



66. The Applicants recognise that legitimate privilege, confidential third-party material and genuine security-sensitive information may arise. The appropriate response is a privilege schedule, lawful redaction, confidentiality regime or targeted judicial direction — not the exclusion of decision-relevant material from the record altogether.

67. Once the record is available, the Applicants will use Rule 53(4) to refine the review. That may include narrowing grounds that the record disproves, identifying the precise dates and decision-makers of standing authorisations, or adding a party if the record reveals a direct and substantial interest that cannot fairly be protected by notice alone.

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CONSTITUTIONAL AND STATUTORY FRAMEWORK

68. Section 1(c) of the *Constitution* establishes the supremacy of the *Constitution* and the rule of law. All public power requires a lawful source, must remain within its statutory bounds and must be rationally related to a legitimate purpose.
69. Section 7(2) obliges the State to respect, protect, promote and fulfil the rights in the Bill of Rights. In a data-governance setting, this obligation is not exhausted by refraining from deliberate intrusion; the State must structure its own identity-information systems in a manner that protects against unlawful or disproportionate processing and disclosure.
70. Section 10 protects dignity. Identity information is closely linked to civic personality, autonomy and the ability of a person to participate in society without arbitrary exposure or mischaracterisation.
71. Section 14 protects privacy. Population-register information concerns the intimate and administrative sphere of an identifiable individual. The degree of intrusion depends on the information, purpose, scale, linkage, recipient, security and downstream use. Systematic access demands correspondingly careful safeguards.
72. Section 33 protects lawful, reasonable and procedurally fair administrative action and the right to written reasons where rights have been adversely affected. *PAJA* gives effect to that right. Where regulation-making or implementation qualifies as



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administrative action, *PAJA* applies; otherwise the principle of legality applies as the constitutional minimum.

73. Section 36 requires limitations of rights to be authorised by law of general application and to be reasonable and justifiable. The breadth and precision of the enabling rule, the importance of the purpose, the nature and extent of the limitation, and the availability of less restrictive means are relevant.
74. Section 39(2) requires every court, when interpreting legislation or developing the common law, to promote the spirit, purport and objects of the Bill of Rights. This provides an interpretive alternative to invalidity where section 21 can reasonably bear a rights-consistent meaning.
75. Sections 195 and 237 reinforce accountable, transparent and diligent public administration. Those provisions are particularly relevant where a statutory power is exercised through technical systems or standing access arrangements that are not visible to the individual whose data is queried.
76. *POPIA* gives effect to constitutional privacy in the processing of personal information. It imposes general conditions for lawful processing, purpose specification, information quality, openness, security safeguards, data-subject participation and accountability. It also contains more specific provisions concerning unique identifiers, special personal information, operators, security compromises and prior authorisation in defined circumstances.



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77. The Applicants rely on *POPIA* as an important protective layer. Their case is not that *POPIA* contains no safeguards. Their case is that a general data-protection statute does not automatically answer whether the particular public power in section 21 is itself sufficiently bounded and whether the Minister and Director-General have lawfully exercised that power in the manner contemplated by the *Identification Act*.



FIRST GROUND: THE SECTION 21 DISCRETION AND CONSTITUTIONAL GUIDANCE

78. In the combined case of *Dawood; Shalabi; Thomas*¹¹ the Constitutional Court confronted statutory discretion capable of affecting fundamental rights. The principle relevant here is that legislation must provide adequate guidance where discretionary power can materially limit constitutional rights; reliance on after-the-fact review does not necessarily cure an inadequately structured power.
79. Section 21(3) provides some guidance and must be given full weight. The existence of a purpose threshold distinguishes this matter from an entirely unguided discretion. But the threshold is framed in broad terms: the exercise or protection of rights, the public interest, and voters' roll purposes.

¹¹ *Dawood and Another v Minister of Home Affairs and Others; Shalabi and Another v Minister of Home Affairs and Others; Thomas and Another v Minister of Home Affairs and Others* [2000] ZACC 8; 2000 (3) SA 936 (CC)

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80. For one-off disclosure that may sometimes be sufficient when read with the rest of the Act and *POPIA*. For systematic real-time or batch verification, however, the constitutional question is whether broad purpose words, without more, adequately regulate the intensity, scope and operational consequences of repeated access to a national identity database.
81. The breadth of section 21(2)(d) is material. It extends beyond State bodies, banks and insurers to "*any other organisation, body, society or institution*". The larger and more diverse the recipient class, the greater the need for clear admission criteria, permitted outputs, purpose limitation, auditability and remedies.
82. The phrase in section 21(2) making furnishing subject to prescribed restrictions, conditions, exclusions, directives and fees strongly indicates that Parliament did not contemplate an unstructured entitlement to access. The statutory design itself anticipates conditions beyond price.
83. If those protections are optional in the sense that only fees need ever be prescribed, the Applicants contend that sections 21(2)(b)–(d) confer an overbroad rights-limiting discretion inconsistent with sections 14 and 36, read with the rule of law.
84. If, on the other hand, section 21 is reasonably capable of an interpretation that adequate restrictions, conditions, exclusions and directives are a substantive precondition to systematic access, the Court may prefer that interpretation under



section 39(2) and grant relief directed at the regulatory and implementation gap rather than invalidate the statutory gateway itself.

SECOND GROUND: FAILURE TO PRESCRIBE OR ESTABLISH AN ADEQUATE SAFEGUARD FRAMEWORK

85. The published *Identification Regulations* appear to regulate fees more clearly than safeguards for systematic access. Regulation 15(d) identifies transaction types and charges but does not, on its face, comprehensively define recipient qualification, permissible data outputs, necessity, proportionality, retention, onward use, audit, suspension of access, error correction or data-subject redress.
86. The Applicants accept that some of these matters may lawfully be governed by *POPIA*, technical standards, contracts or internal directives. That is precisely why the Rule 53 record is necessary. The Court should decide the adequacy of the architecture on evidence, not assumption.
87. If the record shows that the Minister has left the core section 21 restrictions and conditions materially unprescribed while enabling systematic verification at scale, the omission is reviewable as a failure to exercise the statutory power consistently with the *Constitution*, alternatively as irrational or unreasonable administrative conduct.



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88. If the safeguards exist only in unpublished executive instruments that can be changed without public law-making or transparent criteria, a further question arises whether matters that materially determine the extent of a constitutional privacy limitation have been impermissibly displaced from law into administration.
89. The Court need not prescribe the technical design itself. Separation of powers is respected by identifying the constitutional defect, setting the legal standard, and affording the competent Legislature or executive a reasonable period and institutional space to cure it.



THIRD GROUND: REGULATION 15(D) IS A TARIFF, NOT A LICENCE TO ACCESS

90. A central risk of the current text is practical rather than grammatical: a fee-based verification service may be treated operationally as though payment plus technical registration equals legal entitlement.
91. That cannot be the law. Regulation 15(d) expressly subordinates furnishing to section 21(2). Section 21(2) in turn is read with section 21(3), section 6, *POPIA* and the *Constitution*.
92. The Applicants accordingly seek declaratory relief clarifying that regulation 15(d) prices a lawful transaction; it does not legalise an unlawful transaction. A recipient does not acquire population-register access merely because it can pay the fee or meet a technical onboarding requirement.

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93. This interpretive declaration may substantially narrow the dispute. If the Respondents accept it and place before Court a complete lawful framework showing how the statutory thresholds are in fact applied, the constitutional question may be resolved more narrowly than the primary invalidity relief.

FOURTH GROUND: THE IMPLEMENTATION DECISIONS UNDER PAJA, ALTERNATIVELY LEGALITY



94. The First Respondent's regulation-making decision and the Second Respondent's standing implementation arrangements involve the exercise of public power. Whether each impugned act is administrative action under *PAJA* is a question of function and effect, not title alone.
95. The Supreme Court of Appeal has treated ministerial regulation-making as administrative action in the post-*New Clicks* jurisprudence. To the extent that *PAJA* applies, the Applicants rely upon section 6(2), including absence or excess of authority, failure to comply with mandatory and material procedures or conditions, irrelevant or relevant considerations, irrationality, unreasonableness and, where applicable, failure to take a decision.
96. Alternatively, every exercise of public power remains subject to legality. A power conferred to furnish protected identity information may not be used for a purpose or on terms the statute does not authorise, and the means chosen must be rationally connected to the statutory purpose.

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97. At founding stage, the Applicants cannot responsibly plead every implementation decision by date and internal reference because those facts lie peculiarly within the Respondents' knowledge. The decisions are identified as precisely as presently possible by their nature, statutory source and continuing operation. Rule 53(4) exists to permit responsible supplementation when the record reveals their exact form.



POPIA DOES NOT RENDER THE CONSTITUTIONAL ENQUIRY REDUNDANT

98. The Respondents may contend that *POPIA* supplies all necessary safeguards. That submission, if made, must be tested against the actual processing architecture and not accepted at a level of abstraction.
99. *POPIA* unquestionably matters. Security safeguards, operator controls, notification of security compromises, processing limitations, purpose specification and data-subject rights can mitigate risk. The Information Regulator also has important supervisory powers.
100. But *Dawood et al* illustrates a different constitutional question: when legislation itself confers a discretion capable of limiting rights, the Legislature cannot always rely on general constitutional norms and later review to supply all material guidance.

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101. Similarly, *AmaBhungane*¹² demonstrates, in the distinct context of communications surveillance, the constitutional importance of concrete safeguards governing notification, handling, examination, sharing, storage and destruction where State information systems intrude upon privacy. The Applicants rely on that reasoning by analogy only; they do not equate ordinary identity verification with secret surveillance.

102. The correct question is therefore cumulative: does section 21, as interpreted, sufficiently guide the power; have the promised restrictions and conditions been lawfully established; and does the actual system comply with *POPIA* and constitutional proportionality? A “yes” to *POPIA* compliance cannot be assumed to answer the other two questions.



THE 2026 DIGITAL ID DRAFT: CONTEXT, NOT THE TARGET OF THIS REVIEW

103. The 2026 draft amendments are relevant because they reveal the scale and direction of proposed identity infrastructure, including remote biometric verification, digital credentials and interoperability with public and private sectors. They prompted LFN to examine the existing regime holistically.

¹² *AmaBhungane Centre for Investigative Journalism NPC and Another v Minister of Justice and Correctional Services and Others; Minister of Police v AmaBhungane Centre for Investigative Journalism NPC and Others* [2021] ZACC 3; 2021 (3) SA 246 (CC)

104. The Department's public statement also records that use of the proposed Digital Identity system is intended to be optional and that physical products would continue in parallel. LFN acknowledges that stated design choice. This application should not be mischaracterised as an assertion that the draft, merely by existing, has already made Digital ID compulsory.
105. The more immediate point is the converse: systematic population register verification did not begin with the 2026 draft. Regulation 15(d) already contemplates real-time and batch furnishing under the existing Act. The constitutionality and lawfulness of that present gateway therefore require attention irrespective of the ultimate fate or wording of the draft Digital Identity amendments.
106. If the final regulations enacted after public participation introduce new safeguards sufficient to cure part of the present complaint, the Applicants will place that development before Court and narrow the relief accordingly. Public-interest litigation should identify the live defect, not preserve obsolete points after the law changes.



DELAY, SECTION 9 OF PAJA AND THE CONTINUING NATURE OF THE IMPUGNED REGIME

107. Regulation 15(d) came into operation on 1 July 2025. This application is instituted more than 180 days later. The Applicants confront that fact directly rather than attempting to plead around it.

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108. Under *PAJA*, a review brought after the section 7(1) period requires an extension under section 9 in the interests of justice. Under legality, delay remains subject to a reasonableness enquiry and, where unreasonable, the Court considers whether it should nevertheless be overlooked. *Buffalo City*¹³ is among the controlling authorities on that distinction.
109. The Applicants seek an extension *ex abundanti cautela* for any ground that directly reviews the June 2025 promulgation decision. The explanation is that LFN's present constitutional concern did not arise as a tariff dispute when the fee amendment was made. It crystallised during May 2026 when LFN analysed the 2026 draft amendments together with the existing section 21 and regulation 15 architecture.
110. LFN then participated in the public-comment process and delivered a detailed objection on 26 May 2026 to the Chief Director: Legal Services, Adv A M Malakate.
111. The challenged implementation is continuing. Each standing access framework and continuing policy by which systematic verification is authorised remains operational unless changed or withdrawn. The prejudice said to arise from an inadequately safeguarded architecture is therefore ongoing rather than exhausted in June 2025.



¹³ *Buffalo City Metropolitan Municipality v Asla Construction (Pty) Ltd* [2019] ZACC 15; 2019 (4) SA 331 (CC)

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112. No respondent or third party should be unfairly prejudiced by an extension. The Applicants do not seek retrospective unwinding of every completed verification. They seek a Rule 53 process and prospective, calibrated constitutional relief, with suspension if necessary. The legal issues are important, the relevant record is predominantly under State control, and the public interest favours adjudication on a complete record.
113. If, after the record, a specific review target is shown to have an earlier date or materially different legal character, the Applicants will supplement the delay explanation under Rule 53(4) and invite the Court to determine section 9 or legality delay on the actual facts.



NON-JOINDER, NOTICE TO POTENTIALLY INTERESTED PERSONS AND LAWRENCE

114. The Applicants have intentionally avoided citing every bank, insurer, communications provider, verification user or public body that may have an operational interest in population-register verification. To do so without evidence of a direct and substantial legal interest would unnecessarily multiply parties, costs and procedural complexity.

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115. The governing test is not whether a person is interested in the outcome in a broad or commercial sense. *Judicial Service Commission*¹⁴ confirms that joinder is required as a matter of necessity where the person has a direct and substantial interest that may be prejudicially affected by the order.
116. The Full Court in *Lawrence*¹⁵ dealt with a non-joinder objection where shortlisted candidates had been sent the amended application by email and invited to join. At paragraphs 24–28 the Court treated actual notice and the opportunity to participate as material, while applying the direct-and-substantial-interest test from *Judicial Service Commission*.
117. The Applicants rely on *Lawrence* carefully. They do not contend that email notice is a universal substitute for mandatory joinder. Rather, where no relief is presently sought against a body in its own right and its interest may be no more than practical, actual notice is a proportionate safeguard that permits the body to seek intervention if it considers its legal interests directly affected.
118. The Notice of Motion therefore identifies the Minister of Finance, the Information Regulator, and representative bodies in the banking, savings and insurance, and communications sectors as potentially interested persons to receive the issued papers electronically.



¹⁴ *Judicial Service Commission and Another v Cape Bar Council and Another* 2013 (1) SA 170 (SCA)

¹⁵ *Lawrence v Magistrates Commission and Others* [2019] ZAFSHC 269; 2020 (2) SA 526 (FB)

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119. The form of relief is also crafted to minimise prejudicial effect on absent private parties. The Applicants do not ask for immediate cancellation of individual access contracts, invalidation of completed transactions or orders compelling a private body to act. The principal relief is directed at the statutory framework and decisions of the two Respondents.
120. If the Rule 53 record reveals that a particular entity has a direct and substantial interest that cannot fairly be protected without joinder, the Applicants will take the necessary step under Rule 53(4), Rule 10 or a direction of the Court. This approach places substance above ritual while preserving procedural fairness.



JUST AND EQUITABLE RELIEF AND CONSTITUTIONAL CONFIRMATION

121. Section 172(1)(a) obliges a court deciding a constitutional matter to declare law or conduct inconsistent with the *Constitution* invalid to the extent of its inconsistency. Section 172(1)(b) empowers a just and equitable remedy, including suspension of a declaration of invalidity.
122. If section 21 itself is declared invalid, the order will require confirmation by the Constitutional Court under sections 167(5) and 172(2)(a). This Court may grant temporary relief pending confirmation under section 172(2)(b).
123. The Applicants do not seek a remedy that recklessly disables lawful identity verification. If invalidity is established, a suspended declaration — provisionally

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suggested as twelve months — would ordinarily allow Parliament and the executive to cure the defect while the Court imposes or approves only such interim protections as are necessary.

124. The content of interim protections should be informed by the Rule 53 record. It would be premature, before seeing the existing architecture, for the Applicants to ask the Court to design a technical identity-verification system. The lawful remedial objective is to ensure that any continuing access rests on clear authority, necessity, proportionality, data minimisation, security, accountability and effective redress.
125. A structural reporting order is sought only if necessary. Its purpose would be to secure a transparent cure timetable, not to transfer the administration of Home Affairs to the judiciary. A report by the responsible Respondents, a short response by the Applicants and limited retention of jurisdiction would be sufficient if the Court finds structural supervision justified.
126. Completed past transactions should not automatically unravel. The Applicants therefore expressly seek preservation of completed transactions as a class, without extinguishing any individual's right to challenge a specific unlawful disclosure or processing operation on its own facts.



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COSTS

127. This is constitutional litigation against State office-bearers concerning the lawfulness of a national identity-information regime. The Applicants rely on *Biowatch*¹⁶.
128. If the Respondents abide the Court's decision and cooperate with the Rule 53 process, the Applicants do not seek costs merely because the State participated responsibly. If the Respondents oppose and are materially unsuccessful, the Applicants seek their recoverable costs and disbursements as litigants.
129. Any costs order in favour of LFN is sought by LFN as litigant. I have no fee agreement, cession or entitlement under which such an order constitutes remuneration, gain or reward to me personally.
130. If the Applicants are unsuccessful but the litigation remains *bona fide* and is not frivolous, vexatious or manifestly inappropriate, no adverse costs order should ordinarily be made against them under *Biowatch*.

**CONCLUSION**

131. The case is ultimately about legal architecture before technological scale. South Africa can pursue efficient identity verification and digital public services while still

¹⁶ *Biowatch Trust v Registrar, Genetic Resources and Others* [2009] ZACC 14; 2009 (6) SA 232 (CC)

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insisting that access to the population register be authorised by clear law, constrained by meaningful safeguards, administered transparently and subject to effective accountability.

132. The Applicants have pleaded the challenge at three levels — statute, regulation and implementation — because the complete Rule 53 record is necessary to identify where any defect truly lies. They invite the Court to prefer the narrowest effective remedy supported by that record, but not to leave an unconstitutional gap unremedied merely because general data-protection legislation exists elsewhere.



133. The Applicants accordingly request the relief in the Notice of Motion, subject to lawful refinement under Uniform Rule 53(4).

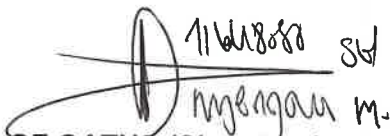
WHEREFORE the Applicants respectfully request the relief set out in the Notice of Motion that accompanies this affidavit.

REYNO DAWID DE BEER

Deponent

Founding Affidavit, Page 51

Signed and sworn to me at OCEAN VIEW on this 28 day of **SEPTEMBER 2026** the deponent having acknowledged that he knows and understands the contents of this affidavit and that he has no objection against taking the prescribed oath, which oath he regards as binding on his conscience and that all other prescribed formalities have been complied with.


COMMISSIONER OF OATHS (Signature)

Full Names & Surname: MFUNDO NYENGANE

Address: 10 Stable Street, 10000, Ocean View

Designation: SGM



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IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2026-238536**

In the matter between:

LIBERTY FIGHTERS NETWORK, REYNO DAWID DE BEER N.O. Plaintiff / Applicant / Appellant

and

MINISTER OF HOME AFFAIRS, DR LEON AMOS SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE, DIRECTOR-GENERAL: DEPARTMENT OF HOME AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O., OR HIS SUCCESSOR IN TITLE Defendant / Respondent

Annexure 01

NOTE: This document was filed electronically by the Registrar on 29/9/2026 at 8:54:11 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED
BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**

Constitution

Liberty Fighters Network (LFN)

2018
As Amended (2024)

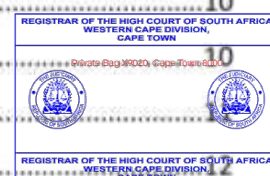


This is the Revised Constitution for the Liberty Fighters Network (LFN) as unanimously accepted by its original founding members and introduced to the public on 9 September 2018 at a Conference held in Johannesburg, Gauteng, Republic of South Africa. Hereby the previous Constitution is being repealed in its entirety.

Amendment, 2024: The 2018 Constitution for the Liberty Fighters Network (LFN) had been amended as indicated herein by way of unanimous resolution by its voting members on 23 June 2024 at a National Conference held in Pretoria, Gauteng, Republic of South Africa, and by way of electronic virtual conferencing, and subsequently republished.

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PREAMBLE

We, the members of the ***Liberty Fighters Network***, hereby unite to establish a non-racial and non-sexist organisation for all South Africans with the vision to eradicate oppression, exploitation and discrimination within our country as well as the promotion, development and maintenance of an authentic citizenship for every one of us. We belief that a non-exploitative and democratic society depends on the unity of the citizens directed at the eradication of oppression. As citizens we unite to develop ourselves so that we can control our own destiny and take our historic role as the vanguard at the struggle for liberation.

We further in particular strive for a better controlled immovable property industry, driven by the citizens for the constant quest to provide a fair piece of land to all our citizens irrespective of our race and to create an environment where our farmers are protected and a true partnership exists between farmers and our people in general for the benefit of all.



We also strive for a total reformed judicial system where everyone will have the right to have his or her case heard in a Court by an independent and competent judicial officer where formal legal representation by a legal practitioner will not be required and historic British dress codes and practices have been done away with.

The Organisation represents:

- A fresh start for a new South Africa. It is an organisation uncontaminated by the past; and
- A multiracial leadership emanating from diverse political backgrounds, united behind common principles to bring hope to the nation; and
- A genuine federal framework of government with original constitutional powers at the lowest possible level.

CHAPTER 1: FOUNDING PROVISIONS

1. Establishment and Name

- (1) There is hereby established an Organisation of residents within South Africa, to be known as the ***Liberty Fighters Network*** in English, which is an independent common law *universitas*.
- (2) The Organisation established by subsection (1) is:
 - (a) an association not for gain; and
 - (b) a corporate body having perpetual succession, legal existence, and all the legal powers of a juristic person able to own assets in its own name.
- (3) As a matter of convenience, ***Liberty Fighters Network***:
 - (a) is referred to throughout this Constitution as "the Organisation"; and
 - (b) may be referred to in any notice, correspondence or legal document by the shortened form of name "***LFN***" in English.
- (4) Notwithstanding anything to the contrary contained within this Constitution, ***LFN*** may register and act as a political party to stand for any election in South Africa.
- (5) Notwithstanding anything contained in this Constitution, the Organisation may form alliances or affiliations with other Organisations or political parties with the same or similar objectives.



2. Objectives

The aim and objectives of the Organisation are:

- (a) to recruit and unite South African residents into one single Organisation in order to share their economic and social welfare;
- (b) to protect the land and housing security of members, to advance their residence prospects, and to serve their individual and collective interests;
- (c) to foster unity, co-operation and comradeship amongst all residents within the scope of the Organisation and other related industries or spheres;
- (d) to support democracy as a popular self-rule, but that the current practice of democracy negates this ideal and reduces the citizen to a mere subject. ***LFN*** aims

to restore power to the people, so as to realize the promise enshrined in our country's Constitution;

- (e) to enhance the Preamble to our Constitution, **LFN** envisions a South Africa, free of corruption, which is a **Sovereign, Secular, Democratic Republic**;
- (f) to resolve securing for all South African residents:

Justice, social economic and political - for everyone including the last person

Liberty of thought, expression, belief, faith and worship

Equality of status and of opportunity in all spheres of life, for individuals and communities and to promote among them all fraternity assuring the dignity of the individual and the Unity and integrity of the Nation;

- (g) to bear true faith and allegiance to the *Constitution of the Republic of South Africa, 1996* as by law established and to the principle of real socialism, **secularism and** democracy and would uphold the sovereignty, unity and integrity of South Africa;

- (h) to promote the aims of **LFN** as promised in its Constitution and Manifesto:
 - i) to develop and implement ecological policies consistent with the philosophical basis of the Organisation as expressed in the policies for a sustainable society;
 - ii) to that end to win seats at all levels of government;
 - iii) to organise any non-violent activity which will publicise and further these aims.

- (i) to establish relationships with other Organisations, Organisation federations, labour organisations or political parties for the benefit of members of the Organisation and the people in general;
- (j) to strive to realise the concept that each resident has got the right to adequate housing, land and service delivery to that immovable property;
- (k) to realise the understanding amongst all residents that there is a desperate need for affordable housing developments for our residents;
- (l) to encourage the revival, development and stop deterioration of our cities, towns, districts, historical townships and informal settlements;
- (m) to advance the need to create proper housing for all South African citizens and creating the awareness of Government and other authorities to urgently attend to housing needs of foreign nationals without encouraging or allowing any xenophobic action to occur;
- (n) to prevent and fight against all illegal evictions from any dwelling or land, as well as



disconnection of any utility or cease of service to any dwelling or land without first obtaining a Court Order; and

- (o) to advance and give inputs to the necessary authorities and role players regarding the Constitutional rights and responsibilities of all our citizens as contained in the Bill of Rights and the African Charter.

3. Scope

The Organisation may operate anywhere in the world and is open to anyone

["Republic of South Africa" replaced with "world" and "any South African resident" replaced with "anyone"
- Date: 23 June 2024]

4. Offices

- (1) The National Working Committee of the Organisation:
 - (a) may determine the location of the Organisation's head office; and
 - (b) must maintain at least one office in the Republic at all times.



5. Authority of the Constitution

This Constitution is the source of all rights and responsibilities within the Organisation, and is the final authority concerning any dispute within the Organisation.

CHAPTER 2: ORGANISATION

6. Structures within the Organisation

- (1) The Organisation is organised into the following structures and general spheres of authority:
 - (a) members, who collectively are the foundation of democratic organisation in the Organisation;

- (b) ...
- (c) ...
- (d) ...
- (e) national working committee (referred to as "NWC") which operates at national level;
and
- (f) national congress (referred to as "NC"), which operates at a national level.

[Sub-paragraphs (b) to (d) deleted - Date: 23 June 2024]

7. Spheres of Authority within the Organisation

Within the Organisation, authority to effect the aims and objectives of the Organisation is allocated as follows:



- (1) ...
- (2) ...
- (3) Within the sphere of operations:
 - (a) the policy-making authority of the Organisation is exercised by the NC;
 - (b) the development of Organisation policy, between meetings of the NC is exercised by the NWC, subject to the decisions and policies of the NC;
 - (c) the National Office-Bearers, exercise the executive authority of the Organisation, subject to the decisions and policies of the NWC and the NC.

[Sub-paragraphs (1) & (2) deleted; "national sphere" replaced with "sphere"; "the NEC, and" deleted - Date: 23 June 2024]

CHAPTER 11: NATIONAL OFFICE

37. National Office-Bearers

- (1) The national Office-Bearers of the Organisation are:
 - (a) the President;
 - (b) ...
 - (c) ...
 - (d) the National Treasurer;
 - (e) ...
 - (f) the National Secretary; and
 - (g) ...
- (2) Each national office-bearer
 - (a) must be elected for a term of 5 years by the NC, in accordance with the provisions of subsection (3);
 - (b) assumes office on the first working day following the close of the NC meeting at which they were elected; and
 - (c) hold office until the earliest of the date on which:
 - (i) the office-bearer resigns or dies;
 - (ii) the office-bearer is removed from office in terms of sections 52 and 53; or
 - (iii) their successor assumes office after being elected by the NC.
- (3) At an ordinary meeting of NC:
 - (a) any member in good standing may be nominated and seconded for election as a national office-bearer referred to in subsection (1);
 - (b) if only one person is nominated for a particular National Office-Bearer post, that person must be declared elected; and
 - (c) if more than one person is nominated for a particular national office-bearer post, a vote must be taken for that office by ballot, and the candidate with the highest number of votes must be declared to that office.

[Sub-paragraphs (1)(b), (c), (e), & (g) deleted - Date: 23 June 2024]



38. Powers and Duties of National Office-Bearers

- (1) The President must:
- (a) preside over meetings of the NC (in absence of the elected Chairperson of the NC), NWC and conduct those meetings in accordance with this Constitution;
 - (b) in consultation with National Office-Bearers ensure enforcement and observance of the rules and orders of this Constitution;
 - (c) after consultation with the National Treasurer and/or National Office-Bearers co-sign the national banking accounts and sign minutes of meetings of the NC, NWC and . Provided that where the President is absent or unavailable he/she may authorise one of the other National Office-Bearers to co-sign in his/her stead;
 - (d) together with other National Office-Bearers, generally supervise the affairs of the Organisation and perform duties incidental to the office subject to the resolution of the the NWC or congress and more importantly in compliance with the Constitution of the Organisation;
 - (e) be the head and chief directing officer of **LFN**, in consultation with the NWC, and the leader of the Organisation who may also at any reasonable time institute or defend legal proceedings;
 - (f) present to the NWC a comprehensive statement of the state of the nation and the political situation generally; and
 - (g) Under the overall supervision of the NWC, orient and direct the activities of the Organisation.
 - (h) The President also hold the office of National Treasurer until such time as the NC elects one.
- (2) ...



- (3) If the President are unable to perform the duties of the President, the NWC must appoint someone from the NWC to act as President until:

- (a) the President is able to perform the duties of the President;
or
- (b) a new President is elected.

(4) The National Treasurer must:

- (a) supervise the financial affairs of the Organisation;
- (b) endorse all accounts for payment and sign cheques on the national banking accounts of the Organisation;
- (c) submit and present statements of the national accounts for each month to the NWC and NEC, and for each annual period to the NC; and
- (d) perform duties usual to the office of the Treasurer, or as are reasonably required by the NC, NWC

(5) The National Secretary:

- (a) is responsible for keeping books and accounts of the Organisation in accordance with the requirements of prevailing laws, and by the NWC;
- (b) must assist the National Treasurer in submitting statements of income and expenditure of the Organisation to each meeting of the NC, NWC
- (c) is responsible for preparing, and circulating to the NWC, the annual report of activities of the Organisation, including in it:
 - (i) statements of income and expenditure, and a balance sheet, all certified by the Organisation's auditors; and
 - (ii) the auditor's report.
- (d) is responsible:
 - (i) for the correspondence of the Organisation and for tabling it at meetings of the
 - (ii) for sending out notices and minutes of all meetings of the NC, NWC and any other committee;
 - (iii) to supervise the work of the provincial secretaries and all officials of the Organisation; and
 - (iv) for the general organising and coordination of work of the Organisation and for the general office work and administration of the affairs and activities of the Organisation;
- (e) may institute and defend legal proceedings in the name of the Organisation in urgent circumstances; and
- (f) must undertake any other duty that is necessary or requested by the NC, NWC



(g) must be in full time service of the Organisation.

(6) ...

(7) ...



[NEC replaced with NWC; sub-paragraph (1)(h) inserted; Sub-paragraphs 2, 6, & 7 deleted; "Deputy President" deleted - Date: 23 June 2024]

CHAPTER 12: NATIONAL EXECUTIVE COMMITTEE

[Entire Chapter 12 deleted; "Deputy President" deleted - Date: 23 June 2024]

39. Establishment and Powers

(1) ...

(2) ...

CHAPTER 13: NATIONAL WORKING COMMITTEE

42. Establishment and Powers

- (1) The NWC develops the policy of the Organisation between meetings of the NC, and has the necessary powers usual for such a body to give effect to the aims and objectives of the Organisation, including the power to:
 - (a) give broad direction concerning organisational, political, educational and policy issues within the Organisation;
 - (b) pass resolutions not inconsistent with the resolutions passed by the NC;
 - (c) establish and determine the nature, membership and scope of sub-committees;
 - (d) ratify decisions of the NEC;
 - (e) approve the annual audited financial statements and balance sheet of the Organisation and submit these to the NC;
 - (f) determine budget guidelines;
 - (g) establish or dissolve region and provincial structures of the Organisation and demarcate the jurisdiction of such Wards and provinces and delegate powers to the PC and PEC; and
 - (h) appoint acting National Office-Bearers to fill vacancies occurring in the positions of the National Office-Bearers consistent with this Constitution.
- (2) National Office-Bearers and Organisation officials attending meetings of the NWC have full speaking rights but no voting rights.



43. Composition of the National Working Committee

The NWC is composed of the national Office-Bearers listed in section 37(1). :Provided that if ever they deem it necessary, the NWC may co-opt additional NWC members.

[Part from "Provided" inserted - Date: 23 June 2024]

44. Meetings of the National Working Committee

- (1) The NWC must meet at least once a year at the place and on the date and time fixed by the President from time to time.
- (2) ...

- (3) A special meeting of the NWC may consider only the special business that necessitated the special meeting.
- (4) The National Secretary must give notice of a NWC meeting in writing to each National Office-Bearer:
 - (a) at least 14 days before a general NWC meeting; or
 - (b) at least 7 days before a special NWC meeting.
- (5) For purposes of commencing a meeting of the NWC and, in order for the meeting to continue at least 3 (three) of the NWC members must be present.
- (6) If, in terms of subsection (5), a meeting cannot be commenced within 1 hour after the time fixed for it to begin:
 - (a) the National Secretary must fix a new time and date for the meeting, which shall be no less than 2 days, and no more than 7 days, after the original date for that meeting; and
 - (b) the National Secretary must give written notice in writing to each National Office-Bearer of the new date for the meeting.
- (7) Despite subsection (5), a meeting scheduled in terms of subsection (6) may be commenced at the time fixed for the meeting to begin, and may proceed until the agenda is completed, regardless of the number of persons present.



[Sub-paragraph 2 deleted - Date: 23 June 2024]

CHAPTER 14: NATIONAL CONGRESS

45. Governing Body of the Organisation

The NC is the highest governing body of the Organisation.

46. Powers of the National Congress

- (1) The NC may:

Organisation, failing which the liquidator may dispose of the remaining assets in terms of the applicable law.

[Sub-paragraph (2)(a) deleted - Date: 23 June 2024]

74. Amendments to Constitution

- (1) Subject to subsection (2) and (3), any provision of the Constitution may be repealed or amended by resolution passed by a 2/3 (two-thirds) majority at a meeting of the NC:
 - (a) a notice of the proposed amendment has been sent to the National Secretary;
 - (b) the National Secretary has circulated the proposal
 - and
 - (c) the proposal has been placed on the agenda for that meeting.
- (2) A proposal may not be placed on the agenda of a meeting of the NC if it would result in the repeal of any provision that is required in terms of any law to be included in the Constitution, unless the proposal also includes a replacement provision that satisfies the requirements of the that law.
- (3) An amendment takes effect only upon being approved by the relevant legislative body, if applicable.



[Sub-paragraphs (1)(b) amended - Date: 23 June 2024]

75. Interpretation

- (1) If any doubt arises as to the meaning of any provision of this Constitution the interpretation of that provision is the responsibility of the NC:
 - (a) which must decide any matter of interpretation by majority vote; and
 - (b) whose decisions are the final interpretation of the provision in question.
- (2) Despite subsection (1), the NWC may make an interim ruling on Constitution interpretation at any time between meetings of the NC.
- (3) Every person interpreting and applying the Constitution:
 - (a) must prefer a reasonable interpretation of a by-law, statement of policy, or decision that is consistent with the Constitution over an interpretation that conflicts with the Constitution;
 - (b) must give a liberal construction to the provisions of the Constitution, in a manner consistent with the Bill of Rights, applicable law, and the traditions of the Organisation;

- (c) may consider applicable legal precedents; and
 - (d) may consult any recognised authority for the meaning of words not specifically defined in this chapter.
- (4) Words importing the singular include the plural, and vice versa.
 - (5) Wherever any period between two events is expressed as a number of days, the days on which the first and second event take place is not to be counted.
 - (6) The power to appoint includes the power to replace.
 - (7) The power to make a rule or policy includes the power to amend or repeal that rule or policy.
 - (8) The word "province", when used as a geographic reference, means a particular province as defined in the Constitution of the Republic of South Africa, 1996 and when used to refer to a constituent element of the Organisation means the operation of the Organisation within a province.



76. Notice

- (1) Unless the Constitution provides otherwise, any notice to members may be sent by ordinary post to the address or electronic mail that the member most recently reported to the Organisation or other reported social media address of that member.
- (2) Except as otherwise provided in this Constitution, the inadvertent failure of the Organisation to give notice of a meeting to a member does not invalidate the notice, the meeting or any business conducted at that meeting.

77. Transitional Provisions

- (1) Notwithstanding any other stipulation contained within this Constitution, the original founding members will elect interim Office-Bearers as described in section 37 and who will be responsible for the duties and have powers as determined in section 38, who will hold office for 5 years from date of approval of this revised Constitution, unless the NC referred to in (1) above wants to replace any one or more of them by putting forth a special motion on a NC.
- (2) Notwithstanding any other stipulation contained within this Constitution, the NWC holding office in terms of (1) above, will also function as the NEC with all its powers and functions

(3) ...

- (4) Any decision taken in good faith by any office-bearer or structure or institution or defending any pending legal proceedings before acceptance of this revised Constitution, are hereby ratified.

[Sub-paragraph (3) deleted - Date: 23 June 2024]

78. Commencement of this Constitution

This revised Constitution takes effect from 9 September 2018 which is the date of acceptance by the founding members and ratified by the members on the first NC, and is as such in force.

□□□



We, the President and the Deputy President of the Organisation, hereby certify that the Constitution is correct and in force.

President: Reyno De Beer

Date: 9 September 2018

Secretary: Nokwanda Oliphant

Date: 9 September 2018

The original Constitution dated 9 September 2018 is hereby amended as indicated herein by unanimous resolution on a National Conference held in Pretoria and by video conferencing on 23 June 2024.

President: Reyno De Beer

Date: 23 June 2024

Acting Secretary: Patience Mavuso

Date: 23 June 2024

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2026-238536**

In the matter between:

LIBERTY FIGHTERS NETWORK, REYNO DAWID DE BEER N.O. Plaintiff / Applicant / Appellant

and

MINISTER OF HOME AFFAIRS, DR LEON AMOS SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE, DIRECTOR-GENERAL: DEPARTMENT OF HOME AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O., OR HIS SUCCESSOR IN TITLE Defendant / Respondent

Annexure 02

NOTE: This document was filed electronically by the Registrar on 29/9/2026 at 8:54:34 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED
BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**



Liberty Fighters Network

Est. 2016 - A voluntary association without gain (*Universitas*)

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Date: 25 May 2026

FORMAL HOLISTIC COMMENT AND OBJECTION



Draft Amendments to the Identification Regulations, 1998, read with the Identification Regulations, 1998 as currently in force

[Government Gazette No. 54610, Government Notice R. 7428, dated 4 May 2026]

To: Chief Director: Legal Services, Department of Home Affairs

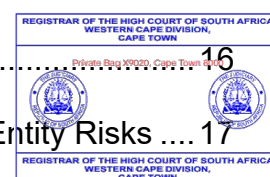
Marked for the attention of: Adv A M Malakate

E-mail: Moses.Malakate@dha.gov.za

Submitted by: Liberty Fighters Network, a voluntary association without gain, represented by its President, Reyno De Beer

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1. Executive Summary

- 1.1. Liberty Fighters Network (“LFN”) submits this holistic comment after considering not only the draft amendments published in *Government Gazette No. 54610* on 4 May 2026, but also the *Identification Regulations, 1998*, as they currently stand. LFN respectfully submits that a proper comment on the draft amendments cannot be limited to the newly proposed digital-identity provisions in isolation. The draft amendments alter the operation, purpose and risk-profile of the entire regulatory scheme.
- 1.2. LFN does not object to digital identity technology *per se* – for all practical purposes, whether we like it or not, the ship has already left the port and reached its destination over influx of time. Resultantly, a Digital ID may benefit society if it is voluntary, secure, decentralised where possible, rights-compliant, non-discriminatory, and genuinely offered as a convenience. It may assist with fraud prevention, lost documents, emergency identification, service delivery and quicker verification. Those advantages, however, cannot justify compulsory digital identity, centralised biometric exposure, private-sector enrolment, race-based classification, open-ended data sharing, ambiguity around who or what may be identified as a “person”, or a system that turns citizenship into a permission-based digital status.



- 1.3. LFN's position remains that Digital IDs may only exist as an additional option alongside physical identity books/cards, with equal legal effect and equal practical acceptance. No individual may be penalised, delayed, charged more, treated as lower trust, excluded from services, or subjected to inferior administrative treatment because that individual chooses to use a physical ID book/card instead of a Digital ID, or *vice versa*.
- 1.4. The current Identification Regulations already contain important features which the draft amendments do not adequately reconcile. These include the existing rules on identity numbers, photographs, fingerprints, address changes, physical identity-card applications, duplicates, temporary identity certificates, offences, and fees for furnishing population-register information. In particular, regulation 15(d), as currently amended, already contemplates real-time and batch furnishing of population-register information to any person, organisation, body, society or institution for a fee. This older fee-based data-access mechanism must be expressly subordinated to the new privacy, trusted-entity and consent safeguards, otherwise the new Digital ID safeguards may be bypassed through the existing fee provision.
- 1.5. LFN further submits that the repeated use of the word "person" in the current and proposed Regulations is a material drafting concern. In South African law, including the *Interpretation Act, 1957*, "person" may include juristic persons, bodies corporate, unincorporated bodies and other *personae fictae*. In a modern digital environment, it may also invite unnecessary future arguments concerning artificial intelligence systems, software modules, robots, digital agents, machine identities, corporate profiles, accounts, devices or other non-human entities. A Digital ID framework dealing with biometrics, liveness detection, facial recognition, fingerprints, dignity, privacy, bodily integrity and civic status must be drafted *ex abundanti cautela* to apply only to natural living human beings, unless a provision expressly deals with juristic or institutional entities such as trusted entities.



1.6. The draft amendments contain some welcome wording. Regulation 16(4) states that a Digital ID has the same legal effect as a physical identity card. Regulation 16(5) states that the issuance of a Digital ID does not affect the validity of a physical identity card and that the holder may use either form of identity card. Regulation 18(1) states that a person may, but is not required to, apply for a Digital ID. Regulation 49(3) states that no person is compelled to obtain a Digital ID in order to continue using a valid physical identity card. LFN welcomes these clauses in principle, but they are incomplete because they do not expressly bind private actors, organs of state, accredited trusted entities, banks, mobile operators, insurers, employers, municipalities, educational institutions, healthcare providers, landlords, security providers, or any other person or entity who may in practice refuse physical IDs and thereby make Digital IDs mandatory *de facto*.



1.7. LFN accordingly requests that the draft amendments be withdrawn, alternatively materially amended and republished for a further public-comment process, after publication of all relevant impact assessments, draft instructions, draft data-sharing agreements, cybersecurity certifications, operational-readiness evidence and plain-language summaries in all written official languages, together with accessible formats for persons with disabilities.

2. Documents and Approach Considered

2.1. LFN considered the following documents for purposes of this revised submission:

- *Identification Regulations, 1998*, as currently in force as at 25 May 2026.
- Draft amendments to the Identification Regulations, 1998, published in *Government Gazette No. 54610, Government Notice R. 7428, dated 4 May 2026*.

- LFN's Discussion Paper, "To Digital ID, or Not to Go Digital, That is the Question", November 2025, Version 1.0.
- Civil-society concerns raised by allied voices, insofar as those concerns are relevant to freedom, privacy, equality, lawful administration and protection against direct or indirect compulsion.
- The *Constitution*, the *Identification Act*, the *Interpretation Act*, *POPIA*, *PAJA*, *PAIA*, the *Consumer Protection Act*, *FICA*, and publicly available official material concerning prior authorisation, public participation, identity systems and accessibility.



2.2. This submission is LFN's own independent position. LFN notes aligned civil society concerns, but does not copy, compare itself with, or purport to adopt any other organisation's objection. The common concern is the preservation of freedom and privacy in a proposed national biometric identity framework.

2.3. LFN has now approached the Regulations holistically. The question is not only whether each new digital provision sounds acceptable in isolation. The proper question is how the current physical-ID framework, the existing population-register access rules, the proposed Digital ID provisions, the trusted-entity model, the Director-General's proposed instruction-making powers, and the repeated use of the word "*person*" will operate together after amendment.

3. LFN's Core Position

3.1. Digital IDs can be an advantage to society, but must never become mandatory, whether expressly, indirectly, commercially, administratively or technologically.

- 3.2. Digital IDs must permanently co-exist with physical ID books/cards. Both systems must be lawful, functional, equally accepted and non-discriminatory. No individual may be disadvantaged for choosing one system over the other.
- 3.3. Persons who choose to remain within the physical-ID system must not have their biometric information exposed to, queried through, migrated into, or made available on the systems utilised for Digital IDs, save where expressly authorised by an Act of Parliament, a warrant, or a court order that meets constitutional standards.
- 3.4. The exchange of personal information between the State and private entities may not occur without clear, informed, specific, recorded and transaction-specific consent by the individual concerned, save for narrow criminal reporting or other statutory duties prescribed by valid legislation.
- 3.5. Private institutions, including banks, mobile operators, insurers and large retailers, may not be used by the State as collectors, processors, validators or custodians of private information for Digital ID enrolment, biometric capture, identity-assurance scoring, or population-register updating.
- 3.6. Digital IDs may not store, display, encode, infer, transmit or facilitate access to race, ethnic origin, colour, BBBEE classification, employment-equity classification, health status, vaccination status, political persuasion, religion, trade union membership, or comparable sensitive classifications.
- 3.7. The regulatory framework must prevent function creep. A Digital ID built for identity verification must not later become a tool for e-voting, social-credit scoring, protest monitoring, medical-status enforcement, political profiling, automated fines, debt collection, commercial analytics, or generalised surveillance.



- 3.8. The regulatory framework must expressly distinguish between a natural living human being and a juristic, artificial, automated, digital or machine-based entity. Human identity infrastructure must not be capable of being misused or reinterpreted to create identity credentials for personae fictae, artificial intelligence systems, robots, software modules, digital agents, devices, accounts, wallets, corporate profiles, machine identities or other non-human constructs.

4. Constitutional and Statutory Framework

- 4.1. The draft amendments must comply with the *Constitution of the Republic of South Africa 1996*. Sections 7(2), 9, 10, 14, 33, 36, 195 and 237 are of direct relevance. Section 7(2) requires the State to respect, protect, promote and fulfil the rights in the Bill of Rights. Section 9 protects equality. Section 10 protects dignity. Section 14 protects privacy. Section 33 protects lawful, reasonable and procedurally fair administrative action. Section 36 controls any limitation of rights. Section 195 demands accountable, transparent and efficient public administration. Section 237 requires constitutional obligations to be performed diligently and without delay.
- 4.2. The *Identification Act, 1997 (Act No. 68 of 1997)* provides for the compilation and maintenance of the population register and the issuing of identity cards and certificates. Section 7 of the Act provides that an identity number consists only of figure-coded date of birth, gender and citizenship, together with serial, index and control numbers. It does not authorise race to be encoded in the identity number. LFN insists that this position must not be altered, inferred around, or recreated digitally through Digital ID metadata, APIs, assurance levels or machine-readable expressions.
- 4.3. The *Interpretation Act* is directly relevant to the drafting concern raised herein. The word “*person*” is not inherently limited to a natural living human being. It may include a juristic



person, company, body corporate, unincorporated association or other *persona ficta*. This broad meaning may be suitable in many statutes, but it is dangerous in a biometric Digital ID framework unless the Regulations expressly state when “person” means a natural living human being and when it means an entity or institution.

4.4. *POPIA* is directly implicated. Biometric information is special personal information. Identity numbers and similar identifiers are unique identifiers. Prior-authorisation considerations under sections 57 and 58 of *POPIA* arise where unique identifiers are processed for a purpose other than that for which they were originally collected and with the aim of linking information with information processed by other responsible parties.

4.5. *PAJA* is implicated because the regulations and their implementation materially affect members of the public. Where administrative action materially and adversely affects the rights of the public, section 4 of *PAJA* requires a procedurally fair process appropriate to the magnitude and impact of the decision. A short written-comment period is insufficient for a national biometric identity architecture unless it is accompanied by proper publication, explanation, impact assessment, accessibility measures and meaningful engagement.



4.6. *PAIA* is relevant because the public must be able to request records concerning system design, data-sharing agreements, accredited entities, security audits, uptime, breaches, vendors, tenders, costs, and operational-readiness decisions.

4.7. The *Consumer Protection Act* is relevant because private actors must not deprive consumers of choice or impose unfair, unreasonable or unjust conditions by insisting on Digital ID only, where physical IDs remain legally valid.

4.8. *FICA* and related laws may require accountable institutions to verify identity and report suspicious transactions. That statutory duty must not be converted into a general permission for banks to enrol citizens into Digital ID systems, collect biometrics for the State, or maintain standing population-register data pipes.

5. Holistic Comment on the Current Regulations as They Would Stand After Amendment

5.1. LFN comments on the current Regulations and the proposed amendments together, because the amended regulatory scheme would operate as one integrated instrument. The following table identifies key provisions, the practical concern, and LFN's requested approach.

Provision	Holistic concern	LFN comment / requested amendment
Regulation 1: Definitions and interpretation	The draft substitutes the entire definition regulation and gives new meaning to "trusted entity", "mandatory particulars", "data sharing agreement", "biometric data", "digital identity credential" and "verified relationship". It still uses "person" repeatedly without a sufficient distinction between natural human beings and juristic or artificial entities.	The definitions are too encompassing and insufficiently precise. "Mandatory particulars" may be determined by instruction, which allows core identity-content questions to be decided administratively after public comment has closed. Define mandatory particulars exhaustively in the Regulations and expressly exclude race, BBBEE, health, vaccination, political and comparable sensitive classifications. Insert a definition of "individual" or "natural living human being" and use it wherever biometrics, Digital ID credentials, identity cards, liveness detection, identity assurance or population-register particulars are concerned.



Provision	Holistic concern	LFN comment / requested amendment
Regulation 1A: Objects	The draft objects include the population register as an authoritative source and establish physical and digital identity cards as alternative forms.	Insert additional objects: to preserve permanent, equal and non-discriminatory access to physical identity documents and non-digital identity verification for all individuals; and to ensure that human identity infrastructure applies only to natural living human beings, not to juristic artificial, automated, digital or machine-based entities.
Regulation 1B: Application	The draft separates regulations 4 to 15 for physical identity cards and regulations 16 to 46 for digital credentials and associated arrangements.	The split is artificial because data sharing, verification, fees and population-register access affect both physical and digital users. Insert a supremacy clause that privacy, consent, non-discrimination, human-identity clarity and fallback protections apply across the entire regulatory scheme.
Regulation 2: Population register	The population register remains the central authoritative record.	The register may remain authoritative for civil-status particulars of natural living human beings, but authority does not mean unrestricted digital interconnection. Access must remain tightly controlled, logged,

Provision	Holistic concern	LFN comment / requested amendment
		minimised and consent-based where private entities are involved. The register must not become a registry for AI modules, robots, machine identities, corporate profiles or other non-human entities.
Regulation 3: Identity number	The current identity number encodes date of birth, gender and citizenship, plus serial, index and control numbers. It does not encode race.	LFN supports that race is not encoded and requests express confirmation that no racial, BBBEE or employment-equity classification may be encoded, inferred, generated or linked to the Digital ID or identity number.
Regulations 4 and 8: Photographs and fingerprint on physical identity card	The current physical system already uses photographs and a thumbprint for identity cards.	Existing physical-ID biometrics must not become a gateway into facial-recognition APIs, liveness detection, private-vendor matching or trusted-entity Digital ID verification for individuals who do not voluntarily obtain Digital IDs.
Regulation 5: Fingerprints	Fingerprints are taken by officials at Department offices or approved processes.	Retain Department control. The draft's private-sector enrolment model must not permit banks or other private staff to collect,

Provision	Holistic concern	LFN comment / requested amendment
		view, store, transmit or reuse fingerprints for the State.
Regulation 6 / proposed regulation 37: Change of address and contact particulars	The current regulation requires notification by prescribed form and, in certain circumstances, written consent before the Director-General records a change. The draft permits <i>MyMzansi</i> , accredited trusted entities and updated mobile/email details.	The draft must not dilute the consent safeguard. Changes through trusted entities must require express consent, non-digital confirmation, and a right to contest. Mobile numbers and email addresses should not become mandatory for physical-ID users.
Regulation 7: Certificates	Birth, marriage and death certificates remain official documents.	Digital ID must not replace or undermine paper certificates. Courts, schools, hospitals, banks and public bodies must continue to accept lawful physical certificates.
Regulation 9: Application for identity card	A person must apply for an identity card within 30 days after attaining 16 years.	This physical-ID duty must not be conflated with a Digital ID duty. Any communication to young persons must clearly state that Digital ID is voluntary. The provision should

Provision	Holistic concern	LFN comment / requested amendment
		refer to a natural living human being or individual where appropriate.
Regulation 10: Temporary identity certificate	The current framework provides temporary identity certificates.	A non-digital temporary identity certificate and emergency paper fallback must remain available where Digital ID fails, is suspended, is unavailable, or the individual lacks a device.
Regulation 11: Steps to ensure application for identity card	Failure to comply with a request to apply for an identity card is an offence.	The offence must apply only to lawful physical identity-card duties under the Act, and never to failure or refusal to apply for, activate or use a Digital ID. It must also be clear that the duty relates to natural living human beings, not juristic persons or non-human systems.
Regulations 12 to 14: Amendment, cancellation, replacement and duplicates	The current framework allows surrender, seizure, cancellation and replacement of physical identity cards/certificates.	The amended Regulations must distinguish between physical-document cancellation and Digital ID suspension/revocation. A Digital ID dispute must not automatically contaminate the physical ID, and vice versa, unless authorised by the Act and supported by reasons.



Provision	Holistic concern	LFN comment / requested amendment
Regulation 15: Fees and furnishing of information	Current regulation 15(d) allows furnishing of information from the population register in real-time or batch format to any person, organisation, body, society or institution for a fee.	This is the most important holistic defect. It must be rewritten so that paid verification cannot bypass the trusted-entity, consent, purpose-limitation, logging and <i>POPIA</i> safeguards. No person or entity should be able to purchase population-register information outside a strict rights-protective framework.
Existing regulation 16 / draft regulations 47 and 48: Offences	The draft repeals the old general offence and inserts new offences.	The draft contains cross-reference errors and overbreadth. It must protect citizens from private-entity misuse as strongly as it penalises citizens for misuse. Refusal to use Digital ID must never be an offence or indirect offence.
Annexures	The current Annexures are designed for paper-based processes.	The Annexures must be updated with privacy notices, consent wording, <i>POPIA</i> rights, non-digital fallback information, and warnings that Digital ID is voluntary. Where forms refer to “ <i>person</i> ”, “ <i>applicant</i> ” or “ <i>holder</i> ”, they should distinguish natural living human beings from entities where necessary.



6. Structural Defects in the Draft Amendment Scheme

6.1. Excessive Reliance on Future Instructions

6.1.1. The draft repeatedly permits the Director-General to determine important standards and particulars by instruction. Examples include mandatory particulars, secure presentation means, renewal steps, biometric standards, fingerprint use, liveness standards, device certification, cryptographic standards, API standards, mobile-device security and accreditation forms.

6.1.2. LFN accepts that technical standards may require periodic updating. However, rights-affecting matters may not be shifted out of public comment and into later unpublished or lightly published instructions. Matters such as what information is mandatory, who may access it, whether biometrics may be queried, how private entities participate, when “*person*” means a natural living human being, and what citizens can refuse must be contained in the Regulations themselves.

6.1.3. LFN requests that all instructions with rights implications be published in draft form for public comment before the Regulations are finalised, alternatively that the Regulations expressly require public consultation before any instruction that expands data categories, access rights, trusted-entity powers or biometric processing.

6.2. Current Regulation 15(d) May Bypass the New Framework

6.2.1. Regulation 15(d), as currently in force, allows a fee for furnishing information from the population register on magnetic tape or similar format in accordance



with section 21(2) of the Act, including real-time verification and batch verification to any person, organisation, body, society or institution.

6.2.2. The draft amendments create a narrower trusted-entity framework, yet do not expressly repeal or rewrite regulation 15(d). This produces a serious loophole. If “any person, organisation, body, society or institution” can continue to buy real-time or batch population-register verification, then the trusted-entity safeguards, data-sharing agreements, audit duties and consent principles may be undermined.

6.2.3. LFN requests that regulation 15(d) be rewritten so that no furnishing of population-register information, whether real-time, batch, magnetic tape, API, or similar format, may occur except under the same consent, *POPIA*, *PAIA*, audit, purpose-limitation, data-minimisation, public-register and redress safeguards applicable to trusted entities. Preferably, regulation 15(d) should be deleted and replaced by a comprehensive access-and-fee provision aligned with regulations 32 to 38A.



6.3. Ambiguous Use of “Person” Creates Human-Identity and Non-Human Entity Risks

6.3.1. The draft repeatedly uses the word “*person*” in contexts dealing with Digital ID credentials, biometric data, liveness detection, identity enrolment, identity verification, identity assurance levels, population-register particulars, ordinary residence, applications, renewals, suspensions, revocations and proof of identity. In ordinary legal drafting the word may be understood from context, but in a Digital ID framework the risk of ambiguity is materially higher.

6.3.2. South African law, including the *Interpretation Act* does not confine “person” to a living human being. It may include juristic persons, companies, bodies corporate, unincorporated associations and other *personae fictae*. The draft itself also introduces “trusted entities”, vendors, accredited enrolment points, APIs, mobile devices and automated verification infrastructure. The result is a mixed human/entity/digital environment in which loose use of “person” is unsafe.

6.3.3. LFN further submits that the modern environment creates an additional risk. There are already debates, in South Africa and abroad, about whether human-like rights or legal recognition may be extended to artificial intelligence systems, robots, digital agents, software modules, machine identities and other non-human constructs. Whether one agrees with those debates or not, human identity legislation must not accidentally create ambiguity that could later become an unnecessary obstacle to administration or litigation.



6.3.4. A Digital ID credential is tied to a living human being’s biometrics, dignity, privacy, bodily integrity, civic status, ordinary residence and access to public services. A company, trust, municipality, voluntary association, bank, AI module, robot, digital wallet, device, account, corporate profile or machine identity cannot rationally have a human face, fingerprint, liveness, bodily integrity, human dignity, ordinary residence in the human sense, or civic particulars in the population-register sense.

6.3.5. LFN accordingly requests that the Regulations define “individual” or “natural living human being” and then use that term wherever the subject is the holder, applicant or data subject of a human identity credential. The word

“*entity*” should be used where juristic persons, trusted entities, organs of state, vendors, banks, mobile operators or institutions are intended. This will prevent both ordinary statutory ambiguity and future attempts to stretch human identity infrastructure to *personae fictae* or non-human automated systems.

6.4. Private-Sector Enrolment Converts Commercial Institutions into Proxy State Agents

6.4.1. The draft allows private-sector enrolment points through accredited, trusted entities. In practical terms, this includes entities such as bank and mobile operators, because the definition of trusted entity expressly includes entities with statutory identity-verification duties relating to anti-money-laundering, electronic communications and other regulated activities.



6.4.2. The result is that commercial institutions may collect, confirm, transmit and refresh citizens' identity particulars while influencing identity-assurance levels. This is constitutionally dangerous. A bank may verify its own client for *FICA*. It should not become an outsourced Home Affairs office, biometric collector, assurance-level contributor or population-register update channel.

6.4.3. If private premises are used for convenience, the process must remain a Department process performed by Department personnel, with Department equipment and no access, retention or reuse by the private host.

6.5. Technical and Drafting Errors Must Be Corrected

- 6.5.1. The *Gazette* notice heading refers to the Identification Act, 2002 (can possibly refer to the 'Animal Identification Act, 2002'), which creates confusion, while the body refers to the Identification Act, 1997. This must be corrected to avoid uncertainty.
- 6.5.2. Regulation 33(1) skips paragraph (e). This must be corrected.
- 6.5.3. Regulation 44(g) refers to compliance audits in accordance with regulation 37, while audit requirements are in regulation 36. This must be corrected.
- 6.5.4. Regulation 48(1)(h) refers to regulation 45(e), but regulation 45 has no paragraph (e). The intended reference appears to be regulation 44(e).
- 6.5.5. Regulation 48(2) states that a person convicted of an offence in terms of regulation 49(1) is liable to punishment. This appears to be a cross-reference error; it should refer to regulation 48(1).
- 6.5.6. Regulation 47 criminalises contravention of regulations 4 to 15, but not regulation 3. If regulation 3 is excluded deliberately, the reason must be stated. If not, the provision must be corrected.
- 6.5.7. Regulation 50 says the Regulations shall be called the Identification Regulations, 2026. Since the legal instrument is an amendment to the Identification Regulations, 1998, the Department must clarify whether it is replacing the principal Regulations or merely amending them. The short title should not create confusion.
- 6.5.8. The drafting must distinguish “person”, “individual”, “holder”, “applicant”, “data subject”, “trusted entity”, “accredited entity”, “vendor”, “organ of state”



and “juristic person” with precision. Without this, the Regulations may produce avoidable interpretive disputes.

7. Specific Objections and Requested Amendments

7.1. Objection 1: Digital IDs Must Never Become Mandatory in Law or Practice

7.1.1. LFN welcomes the wording that a person “may, but is not required to” apply for a Digital ID. However, the true danger is indirect compulsion. Digital IDs may become mandatory if banks, mobile operators, employers, schools, insurers, municipalities, licensing offices, hospitals, security estates, airlines, courts or service providers refuse to deal with physical IDs.



7.1.2. The Regulations must therefore bind both public and private actors. An individual must be able to use a physical ID book/card in all situations where a Digital ID would otherwise be accepted, unless an Act of Parliament expressly and constitutionally authorises a particular limitation.

7.1.3. “*Voluntary*” must mean voluntary in everyday life, not merely voluntary inside the Department’s own application form.

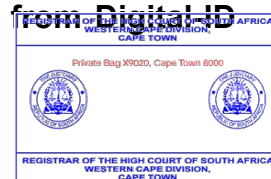
7.2. Objection 2: Physical IDs Must Remain Equal and Permanent

7.2.1. The physical identity book/card system must remain operational, affordable, accessible and equally accepted. It must not be treated as legacy, inferior or transitional.

7.2.2. The State must maintain non-digital channels for applications, renewals, corrections, address changes, certificates, temporary identity certificates, duplicates and dispute resolution.

7.2.3. Any proposed discontinuation or degradation of physical IDs must require primary legislation, a socio-economic impact assessment, full public participation and parliamentary oversight.

7.3. **Objection 3: Biometrics of Physical-ID Users Must Be Segregated from Digital ID Infrastructure**



7.3.1. LFN recognises that the current physical-ID framework already involves photographs and fingerprints. That does not mean those biometrics may be exposed to Digital ID systems, facial-recognition engines, liveness detection tools, APIs, private vendors or trusted entities for individuals who have not chosen Digital ID.

7.3.2. An individual who chooses physical ID only must remain outside the Digital ID ecosystem to the maximum extent technically and legally possible.

7.3.3. Biometric processing must be minimised, segregated, encrypted, access-controlled, independently audited and subject to user-visible logs.

7.4. **Objection 4: Consent Must Be Specific, Informed, Recorded and Transaction-Based**

7.4.1. Data-sharing agreements between the Department and trusted entities do not amount to consent by citizens. A citizen is not a party to that agreement.

LFN objects to the State and a private institution deciding between themselves how a citizen's identity data will flow.

- 7.4.2. The default model should be user-present, transaction-specific verification. The trusted entity should receive the minimum possible response, preferably a yes/no confirmation or cryptographic proof, not raw personal data.
- 7.4.3. Consent must not be bundled into bank terms, mobile contracts, employment onboarding, insurance applications or app terms. Refusal of Digital ID data sharing must not result in refusal of service where a physical-ID route exists.



7.5. Objection 5: Trusted Entities and Verified Relationships Are Too Broad

- 7.5.1. The definition of trusted entity is wide enough to include many state, *quasi*-state and private bodies. Regulation 38A then allows verified relationships and near real-time update notifications. This architecture creates a continuous identity-data mesh around the citizen.
- 7.5.2. LFN objects to near real-time update notifications to private entities unless each specific notification is demonstrably necessary, consented to by the citizen, and required by a clear statutory duty.
- 7.5.3. The Department must not create a standing identity-surveillance ecosystem in which every address, mobile number, email address or mandatory particular flows between the population register and commercial institutions.

7.6. Objection 6: Identity Assurance Levels Must Not Create a Two-Tier Citizenry

7.6.1. Regulation 24 allows identity assurance levels to increase when a person is verified by accredited trusted entities. This may sound technical, but it can create a hierarchy between “high-trust” and “low-trust” citizens.

7.6.2. Wealthier, urban, banked and digitally active persons may accumulate higher assurance. Poor, rural, elderly, unbanked, privacy-conscious or physical-ID-only citizens may be treated as lower assurance. That would offend equality and dignity.

7.6.3. Assurance levels must never be used as a generalised citizen score eligibility condition, service-quality differentiator, credit-risk indicator, fraud suspicion marker, or basis for differential treatment. They must be internal, transaction-specific and not disclosed unless strictly necessary and consented to.



7.7. Objection 7: No Racial, BBBEE or Sensitive Classification

7.7.1. LFN objects to any Digital ID, identity number, QR code, machine-readable expression, digital wallet, API response, identity-assurance level, verified relationship or population-register interface storing, displaying, encoding, inferring, transmitting or facilitating access to race, ethnic origin, colour, BBBEE classification, employment-equity classification, health status, vaccination status, political persuasion, religious or philosophical belief, trade union membership or comparable sensitive classification.

7.7.2. Even where other legislation permits certain entities to collect demographic information for their own statutory reporting, such data must remain external

to national identity credentials. An identity credential must prove identity. It must not become a racial tag, BBBEE token, health passport or social-control instrument.

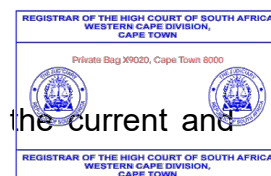
- 7.7.3. LFN requests an express exclusion clause in the Regulations, because relying on silence is insufficient.

7.8. Objection 8: “Person” Must Be Limited to a Natural Living Human Being Where Human Identity Is Concerned

- 7.8.1. LFN objects to the repeated use of the word “person” in the current and proposed Regulations without sufficient precision. In South African law, “person” may include *personae fictae* and not only natural human beings. This creates avoidable ambiguity in a regulatory framework concerned with human biometrics, liveness detection, identity cards, population-register particulars and access to public services.

- 7.8.2. This concern is not academic. The proposed Digital ID framework also deals with trusted entities, accredited entities, private institutions, vendors, APIs, mobile devices, automated verification systems and digital credentials. Unless the Regulations expressly distinguish human beings from non-human entities, future disputes may arise as to whether certain rights, identity features, access routes or legal statuses may be extended to juristic persons, AI modules, software agents, robots, machine identities, digital wallets, accounts, devices or other artificial constructs.

- 7.8.3. LFN’s position is that Digital ID credentials under these Regulations must be limited to natural living human beings whose particulars are or may lawfully



be included in the population register. No juristic person, *persona ficta*, company, trust, organ of state, municipality, association, body corporate, unincorporated body, artificial intelligence system, software module, digital agent, robot, automated system, digital wallet, device, account, corporate profile, machine identity or other non-human entity may apply for, hold, present, use, activate, renew, benefit from or be recognised as the holder or bearer of a Digital ID credential issued under these Regulations.

7.8.4. LFN accordingly requests that the Regulations define “individual” as a natural living human being and thereafter replace “person” with “individual”, “natural person”, “applicant”, “holder” or “data subject” wherever the subject is a living human being. Conversely, where the Regulations intend to refer to banks, companies, organs of state, municipalities, vendors, trusted entities or other institutions, they must use “entity”, “trusted entity”, “juristic person”, “body”, “organ of state” or “institution”.



7.8.5. This definitional clarity is necessary *ex abundanti cautela* to prevent both ordinary statutory misinterpretation and any future ideological or technological attempt to extend human biometric identity infrastructure to non-human entities.

7.9. Objection 9: Suspension and Revocation Require Strong Redress

7.9.1. Regulation 21 allows suspension for suspected fraud, pending contact re-verification, failure to comply with obligations, or where suspension is otherwise necessary. The phrase “otherwise necessary” is too broad.

- 7.9.2. If a Digital ID becomes widely used, suspension may lock a person out of life. The Regulations must provide reasons, non-digital notice, urgent objection, human review, independent complaint mechanisms, physical-ID fallback and compensation for wrongful harm.
- 7.9.3. No person's physical ID may be suspended, cancelled or treated as suspect merely because a Digital ID has been suspended, unless the Act expressly permits it and written reasons are supplied.

7.10. Objection 10: Public Participation Is Inadequate



- 7.10.1. The comment period of approximately 33 days is inadequate for a national biometric identity framework affecting every person in South Africa.
- 7.10.2. The Department should publish the full draft regulatory scheme, draft instructions, draft data-sharing agreements, impact assessments, cybersecurity summaries, operational-readiness reports and plain-language summaries before requesting final comment.
- 7.10.3. A new comment period of at least 60 days must follow, with publication of the draft Regulations and a plain-language explanatory summary in all written official languages, together with accessible formats for persons with disabilities, including screen-reader compatible documents, large-print versions, and, where public briefings or explanatory videos are used, South African Sign Language interpretation.

7.11. Objection 11: Operational Readiness and Cybersecurity Must Be Proven

- 7.11.1. A national biometric identity system is high-risk infrastructure. If it fails, citizens may be excluded. If it is breached, faces and fingerprints cannot be changed like passwords.
- 7.11.2. The Department must publish or table an independent operational-readiness and cybersecurity certificate before commencement. Where technical details cannot be made public for security reasons, an independent public executive summary must still be provided.
- 7.11.3. The Regulations must include uptime standards, disaster recovery, manual fallbacks, breach notification, compensation, vendor liability, staff vetting, false-match and false-rejection testing, and independent audits.



7.12. Objection 12: Function Creep Must Be Expressly Prohibited

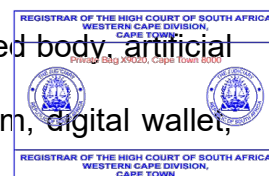
- 7.12.1. LFN objects to Digital ID infrastructure being used for purposes unrelated to identity verification voluntarily initiated by the person concerned.
- 7.12.2. The Regulations must prohibit use for e-voting, social-credit scoring, vaccine-status enforcement, health-status disclosure, protest monitoring, political profiling, debt collection, automated fines, commercial analytics, targeted advertising, race-based profiling and generalised surveillance.
- 7.12.3. Any future expansion must require new legislation or, at minimum, new regulations with proper public participation and parliamentary oversight.

8. Consolidated Proposed Clauses

- 8.1. LFN proposes that the following clauses be inserted in substance. The Department may refine numbering and technical drafting, but not dilute their constitutional effect.

Definition of individual:

“*individual*” means a natural, living human being whose particulars are or may lawfully be included in the population register, and excludes any juristic person, *persona ficta*, company, trust, organ of state, municipality, association, body corporate, unincorporated body, artificial intelligence system, software module, digital agent, robot, automated system, digital wallet, device, account, corporate profile, machine identity or other non-human entity.



Interpretative clause:

For the purposes of these Regulations, any reference to an applicant, holder, identity-card holder, data subject, individual or person in relation to a digital identity credential, biometric data, liveness detection, identity enrolment, identity verification, identity assurance level, identity card, population-register particulars, ordinary place of residence, proof of identity, suspension, revocation or renewal shall mean a natural living human being only, unless the Regulation expressly refers to a juristic person, trusted entity, accredited entity, organ of state or other institutional body.

Exclusion of non-human identity claims:

No juristic person, *persona ficta*, company, trust, organ of state, municipality, association, body corporate, unincorporated body, artificial intelligence system, software module, digital agent, robot, automated system, digital wallet, device, account, corporate profile, machine identity or other non-human entity may apply for, hold, present, use, activate, renew, benefit from or be recognised as the holder or bearer of a digital identity credential issued under these Regulations.

Voluntariness and equal legal effect:

No individual is required, directly or indirectly, to apply for, hold, present, use, activate, renew or rely upon a digital identity credential. A valid physical identity book, physical identity card, temporary identity certificate, certificate issued under the Act, and digital identity credential shall be accepted equally for all lawful purposes of proof of identity, and no individual may be disadvantaged for choosing any one lawful identity format over another.

Anti-discrimination by public and private actors:

No organ of state, public body, private body, trusted entity, accredited entity, service provider, accountable institution, mobile operator, financial institution, employer, educational institution, healthcare provider, municipality, insurer, landlord or any other person may refuse service, impose additional conditions, levy higher fees, delay service, reduce benefits, lower assurance, or treat an individual adversely solely because that individual uses a valid physical identity document instead of a digital identity credential, or *vice versa*.

Physical fallback:

Every service, transaction or administrative process for which proof of identity is required must maintain a physical, non-digital and offline verification route that is reasonably accessible, affordable and not materially inferior to a digital route.

Regulation 15(d) alignment:

No information from the population register may be furnished in real-time, batch format, magnetic tape, API, or any similar format to any person, organisation, body, society, institution, trusted entity or accredited entity except in accordance with *POPIA*, *PAIA*, these Regulations, a lawful and specific purpose, data minimisation, audit logging, retention limits, breach notification, and the data subject's clear, specific, informed, voluntary and recorded consent, save where disclosure is expressly required by an Act of Parliament, warrant, court order or other lawful authority applicable to that specific disclosure.

**No private-sector biometric collection for the State:**

No private entity may collect, process, retain, transmit or verify biometric data on behalf of the Department for purposes of enrolment for a digital identity credential, unless such processing is performed exclusively by Department personnel, on Department-controlled systems, with no access, retention or reuse by the private entity.

Biometric segregation for physical-ID users:

Where an individual does not hold or use a digital identity credential, that individual's biometric data may not be made accessible through digital identity credential systems, trusted-entity verification services, API interfaces, assurance-level scoring, verified-relationship records or update notifications, save where expressly authorised by an Act of Parliament, court order or warrant.

Consent-based data sharing:

No information from the population register may be furnished to a trusted entity unless the data subject has given clear, specific, informed and recorded consent for the particular transaction and the particular categories of information to be disclosed, save where disclosure is expressly required by an Act of Parliament, court order, warrant or other lawful authority applicable to that specific disclosure.

***No racial or sensitive classification:***

No digital identity credential, machine-readable expression, API response, assurance level, verified relationship, QR code, digital wallet or data-sharing arrangement may contain, infer, display, encode, transmit or facilitate access to race, ethnic origin, colour, BBBEE classification, employment-equity classification, health status, vaccination status, political persuasion, religious or philosophical belief, trade union membership or comparable sensitive classification.

User audit rights:

Every individual shall have a free, accessible and non-digital means to obtain a full record of all accesses, verification queries, disclosures, update notifications and trusted-entity interactions relating to his or her information, including the identity of the requester, date, time, purpose, legal basis, data categories accessed, outcome and retention period.

No function creep:

Digital identity infrastructure may be used only for identity verification and authentication necessary for the transaction voluntarily initiated by the individual concerned, and may not be used for social-credit scoring, political profiling, protest monitoring, e-voting, vaccine-status enforcement, race-based profiling, commercial advertising, credit scoring, debt collection, automated fines, generalised surveillance or any purpose not expressly authorised by law after public participation.

***Redress and human review:***

No adverse decision affecting access to identity, services, benefits, banking, communications, employment, education, healthcare, voting, travel, licensing or lawful economic activity may be made solely by automated processing. Affected individuals must receive reasons, non-digital notice, access to urgent human review, an independent complaint mechanism, and a physical-ID fallback pending final determination.

9. Requests

- 9.1. LFN requests that the Minister and the Department not finalise the draft amendments in their current form.
- 9.2. LFN requests that the draft amendments be withdrawn, alternatively materially amended and republished, to include the following:
 - 9.2.1. An express definition of “individual” as a natural living human being only, excluding juristic persons, personae fictae, artificial intelligence systems, software modules, robots, digital agents, automated systems, digital wallets, devices, accounts, corporate profiles, machine identities and other non-human entities.
 - 9.2.2. A full review of the Regulations to replace “person” with “individual” or “natural person” wherever the subject is a living human being, and to reserve “entity”, “trusted entity”, “juristic person”, “body”, “organ of state” or “institution” for non-human legal or institutional actors.
 - 9.2.3. An express anti-compulsion and anti-discrimination clause binding both public and private actors.
 - 9.2.4. Permanent equal status and practical acceptance of physical ID books/cards, temporary identity certificates and lawful certificates.
 - 9.2.5. A non-digital, offline fallback route for every identity-dependent service.
 - 9.2.6. Deletion or strict limitation of private-sector enrolment points and trusted-entity biometric roles.
 - 9.2.7. Rewriting of regulation 15(d) so that paid real-time or batch access to population-register information cannot bypass the new safeguards.



- 9.2.8. Deletion or major narrowing of regulation 32(2)(d), especially the phrase “*such other lawful purposes as may be specified in a data sharing agreement*”.
- 9.2.9. Deletion or major narrowing of regulation 38A on verified relationships and near real-time update notifications.
- 9.2.10. Clear, specific, transaction-based consent as the default for any State-private identity-information exchange.
- 9.2.11. Express prohibition on race, BBBEE, employment-equity, ~~health vaccine~~, political, religious and comparable sensitive classifications in Digital ID infrastructure.
- 9.2.12. Biometric segregation for persons who choose not to hold or use Digital IDs.
- 9.2.13. Independent cybersecurity and operational-readiness certification before commencement.
- 9.2.14. User-visible audit logs and non-digital access to records of all queries and disclosures.
- 9.2.15. Rapid redress, human review, physical-ID fallback and compensation for wrongful suspension, false matches, breaches or administrative error.
- 9.2.16. Correction of drafting errors, cross-reference errors and the incorrect *Identification Act* reference in the *Gazette* notice.
- 9.2.17. Publication of all draft instructions, data-sharing templates, impact assessments and plain-language summaries before any finalisation.



- 9.2.18. A fresh public-comment period of at least 60 days, with publication in all written official languages and accessible formats for persons with disabilities.

10. Conclusion

- 10.1. LFN repeats that Digital ID may be useful when it is a voluntary convenience. It becomes constitutionally dangerous when it becomes a condition of daily life, a private-sector data pipeline, a biometric surveillance layer, a racial or sensitive-classification instrument, a human/non-human identity ambiguity, or a mechanism that quietly downgrades those who prefer physical identification.



- 10.2. Having now considered the current Identification Regulations, 1998, together with the proposed amendments, LFN submits that the existing and proposed regimes must be reconciled before finalisation. The Department cannot responsibly finalise the Digital ID provisions while leaving older population-register access mechanisms, physical-ID rules, address-change rules, offence provisions, fee-based data-sharing provisions and definitional ambiguities insufficiently harmonised with the new privacy and rights safeguards.
- 10.3. A Digital ID framework that affects human dignity, privacy, bodily integrity, biometrics and civic identity must be drafted with absolute clarity that it applies only to natural living human beings, and not to juristic persons, artificial systems, digital agents, robots or any other non-human entities. If South Africa ever chooses to regulate digital agents, AI modules, robots, machine identities or corporate identity systems, that must be done in separate legislation after separate public participation, not by ambiguity in human identity Regulations.

10.4. LFN accordingly requests that the Department withdraw the draft amendments in their current form, alternatively amend and republish them in line with this submission. LFN requests written reasons if any material request herein is rejected.

10.5. LFN reserves all rights *in toto*, including the right to request records under *PAIA*, to make further submissions, to participate in parliamentary processes, and to institute review proceedings should the final Regulations remain constitutionally defective.

Yours Faithfully,



Reyno D. De Beer

President: Liberty Fighters Network

On behalf of our members and acting in Public Interest



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2026-238536**

In the matter between:

LIBERTY FIGHTERS NETWORK, REYNO DAWID DE BEER N.O. Plaintiff / Applicant / Appellant

and

MINISTER OF HOME AFFAIRS, DR LEON AMOS SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE, DIRECTOR-GENERAL: DEPARTMENT OF HOME AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O., OR HIS SUCCESSOR IN TITLE Defendant / Respondent

Annexure 03

NOTE: This document was filed electronically by the Registrar on 29/9/2026 at 8:54:54 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED
BY:

**Registrar of The High Court,
Western Cape Division, Cape
Town**

"RDB3"

29/9/2026-8:54:54 AM

Subject: Comment/Objection: Draft Amendments to the Identification Regulations, 1998

From: Reyno De Beer - LFN International <reyno@libertyfighters.org>

Date: 2026/05/26, 08:37

To: Moses.Malakate@dha.gov.za

CC: Reyno De Beer <debeerreyno@gmail.com>

To: Chief Director: Legal Services, Department of Home Affairs

Marked for the attention of: **Adv A M Malakate**

Submitted by: Liberty Fighters Network, a voluntary association without gain, represented
by its President, Reyno De Beer



Good day,

KINDLY FIND ATTACHED our **FORMAL HOLISTIC COMMENT AND OBJECTION** in respect of the Draft Amendments to the Identification Regulations, 1998, read with the Identification Regulations, 1998 as currently in force [Government Gazette No. 54610, Government Notice R. 7428, dated 4 May 2026].

KINDLY confirm receipt.

--

PS: Kindly note the Important/Disclaimer Notice underneath our signature for your information.

Kind Regards,

Reyno De Beer

29/9/2026-8:54:54 AM

President: Liberty Fighters Network

Mobile: +27 (0) 67 735 7288

Telegram News Channel: [@libertyfightersnews](#)

Facebook: [libertyfightersnetwork](#)

Twitter: [@LFN_SouthAfrica](#)

YouTube: [Reyno De Beer, Liberty Fighter #1](#)

Website: [www.libertyfighters.org](#)

Email: reyno@libertyfighters.org

If you like our work, kindly consider making a voluntary donation via [PayPal](#) or [Mobipaid](#)

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In accordance with the LPA, we may not solicit remuneration for any legal service and only a registered legal practitioner may do so. LFN only relies on voluntary donations for funding. However, this restriction to request remuneration does not apply to our legal services in relation to international forums for which we are entitled to enter into a services agreement. **Privileged/Confidential information may be contained in this message.** If you are not the addressee indicated in this message (or responsible for delivery of the message to such person) you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply E-Mail. Please advise immediately if you or your employer do not consent to e-mail messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of LFN shall be understood as neither given nor endorsed by it. All views expressed herein are the views of the author and do not reflect the views of LFN unless specifically stated otherwise.



— Attachments: _____

260525-LFN Comments Identification Regulations.pdf

784 kB

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IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2026-238536**

In the matter between:

LIBERTY FIGHTERS NETWORK, REYNO DAWID DE BEER N.O. Plaintiff / Applicant / Appellant

and

MINISTER OF HOME AFFAIRS, DR LEON AMOS SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE, DIRECTOR-GENERAL: DEPARTMENT OF HOME AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O., OR HIS SUCCESSOR IN TITLE Defendant / Respondent

Annexure 04

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Town**

"RDB4"

29/9/2026-8:55:24 AM

Subject: Read: REMINDER – FORMAL NOTICE OF CONSTITUTIONAL CONCERN AND DEMAND FOR URGENT INTERVENTION: IDENTIFICATION ACT, 1997 AND IDENTIFICATION REGULATIONS, 1998
From: Moses Malakate <Moses.Malakate@dha.gov.za>
Date: 2026/06/11, 12:27
To: Reyno De Beer - LFN International <reyno@libertyfighters.org>

Your message

To: Moses Malakate
Subject: REMINDER – FORMAL NOTICE OF CONSTITUTIONAL CONCERN AND DEMAND FOR URGENT INTERVENTION: IDENTIFICATION ACT, 1997 AND IDENTIFICATION REGULATIONS, 1998
Sent: Thursday, May 28, 2026 12:16:25 PM (UTC+02:00) Harare, Pretoria

was read on Thursday, June 11, 2026 12:27:14 PM (UTC+02:00) Harare, Pretoria.

Final-recipient: RFC822; Moses.Malakate@dha.gov.za
Disposition: automatic-action/MDN-sent-automatically; displayed
X-MSEch-Correlation-Key: 9r0ZH3iWJ0CLS+aN+KoDjw==
X-Display-Name: Moses Malakate



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2026-238536**

In the matter between:

LIBERTY FIGHTERS NETWORK, REYNO DAWID DE BEER N.O. Plaintiff / Applicant / Appellant

and

MINISTER OF HOME AFFAIRS, DR LEON AMOS SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE, DIRECTOR-GENERAL: DEPARTMENT OF HOME AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O., OR HIS SUCCESSOR IN TITLE Defendant / Respondent

Annexure 05

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Western Cape Division, Cape
Town**



Liberty Fighters Network

Est. 2016 - A voluntary association without gain (*Universitas*)

Office of the President: Reyno De Beer

Cellular: +27(0)67 735 7288

Electronic Mail: reyno@libertyfighters.org

Website: www.libertyfighters.org / Telegram: @libertyfightersnews / Twitter: @LFN_SouthAfrica /

Facebook: Libertyfightersnetwork / YouTube: @LibertyFighters

Date: 28 May 2026

Attention: The Minister of Home Affairs

Dr Leon Amos Schreiber

c/o Ms Anthula Higgins (Acting)

Email(1): Anthula.higgins@dha.gov.za

Email(2): Carli.vanwyk@dha.gov.za

Email(3): Moses.Malakate@dha.gov.za

Email(4): ministerialqueries@dha.gov.za



Dear Minister Schreiber,

REMINDER – FORMAL NOTICE OF CONSTITUTIONAL CONCERN AND DEMAND FOR URGENT INTERVENTION: IDENTIFICATION ACT, 1997 AND IDENTIFICATION REGULATIONS, 1998

1. We address this correspondence on behalf of Liberty Fighters Network (“LFN”), a well-known voluntary association without gain acting in the public interest and on behalf of its members.
2. This letter follows LFN’s formal submission dated 25 May 2026 relating to the proposed draft amendments to the *Identification Regulations, 1998*, published under *Government Gazette No. 54610, Government Notice R. 7428 dated 4 May 2026*. That submission already identified substantial constitutional, statutory, privacy and administrative-law concerns in relation to the proposed Digital ID framework and the broader identity-information architecture.
3. Upon further detailed consideration of the current *Identification Regulations, 1998*, read together with section 21 of the *Identification Act, 1997 (Act No. 68 of 1997)*, LFN is compelled to formally place the Minister and the Department on terms regarding what now appears to be a far more serious constitutional dilemma embedded within the existing legislative and regulatory structure itself.
4. At the outset, LFN records that the concern is not merely whether the Department may lawfully charge administrative fees relating to verification services or identity-related transactions in terms of regulation 15(d). The deeper constitutional issue is whether the current statutory and regulatory framework unlawfully permits the disclosure, furnishing, dissemination, querying, verification and potential commercialisation of highly sensitive population-register information without Parliament itself prescribing constitutionally adequate safeguards, and further, without the Minister having lawfully prescribed the



restrictions, conditions, exclusions and directives contemplated by the empowering legislation itself.

5. Section 21(1) of the *Identification Act* creates a statutory confidentiality and secrecy protection over information obtained in the execution of functions under the Act. In plain terms, the Legislature recognised the extreme sensitivity of population-register information and expressly prohibited publication or communication thereof except in limited circumstances.

6. However, section 21(2) then creates broad exceptions permitting the Director-General to furnish information from the population register to various categories of entities, including banks, insurers, organs of state, and notably, “any other organisation, body, society or institution”, subject to “the restrictions, conditions, exclusions, directives and fees as may be prescribed”.



7. Section 21(3) further attempts to limit such furnishing by providing that information may only be furnished where it is required for the exercise or protection of rights, in the public interest, or for purposes of compiling a voters' roll.

8. The constitutional concern arises because the *Identification Act* appears to contemplate that a detailed safeguard architecture would be prescribed through subordinate legislation in order to constitutionally regulate the limitation of privacy rights flowing from section 21(2).

9. However, the current *Identification Regulations, 1998*, do not appear to prescribe a constitutionally adequate safeguard regime governing the implementation of section 21(2).

10. In particular, the current Regulations do not adequately prescribe, *inter alia* —

10.1. meaningful data-subject notification requirements;

10.2. consent procedures and standards;

- 10.3. judicial oversight mechanisms;
- 10.4. independent review or appeal procedures;
- 10.5. data minimisation obligations;
- 10.6. retention and destruction standards;
- 10.7. restrictions on onward disclosure;
- 10.8. audit and transparency mechanisms;
- 10.9. proportionality standards;
- 10.10. safeguards against profiling and cross-linking;
- 10.11. breach-notification obligations;
- 10.12. independent supervisory structures;
- 10.13. procedures for challenging disclosures;
- 10.14. limitations on commercial use;
- 10.15. safeguards concerning biometric information;
- 10.16. procedures regulating batch verification and bulk querying;
- 10.17. safeguards regulating real-time access to population-register information;
- 10.18. effective remedies for unlawful disclosure or misuse;
- 10.19. standards for determining necessity or public interest;
- 10.20. meaningful procedures to ensure compliance with the *Protection of Personal Information Act, 2013* ("POPIA").



11. Instead, the current regulatory framework appears primarily to prescribe fees for the furnishing of information under regulation 15(d), including real-time and batch furnishing of information from the population register to “*any person, organisation, body, society or institution*”.
12. LFN respectfully submits that this creates a profound constitutional defect.
13. Parliament may not permissibly create a broad statutory gateway into highly sensitive identity and population-register information affecting dignity, privacy, bodily integrity, equality and civic participation, and thereafter leave the essential constitutional safeguard architecture to subordinate legislation without sufficient legislative precision and guidance.
14. Further alternatively, even if such delegation were constitutionally permissible, the Minister appears not to have prescribed the full safeguard framework contemplated by section 21(2), thereby rendering the present disclosure regime incomplete, irrational, constitutionally deficient, ultra vires and inconsistent with the principle of legality.
15. The present position accordingly appears to be that the confidentiality protection granted by section 21(1) may in practice be substantially undermined through section 21(2), absent the constitutionally necessary and statutorily contemplated safeguard framework.
16. This concern is materially aggravated by the fact that the population register contains highly sensitive personal information, including unique identity numbers, citizenship information, residential particulars, marital particulars, photographs, fingerprints and other civic-status information.
17. The concern is further aggravated by the emergence of proposed Digital ID infrastructure, biometric verification systems, APIs, trusted entities, batch verification models, real-time querying, machine-readable credentials and expanded data-sharing mechanisms contemplated within the draft amendments to the Regulations.



18. LFN accordingly places the Minister on terms to urgently address this constitutional dilemma.
19. In particular, LFN requests that the Minister, within 30 days of receipt of this letter —
 - 19.1. provide written reasons explaining the constitutional and statutory basis upon which the Department currently furnishes information from the population register in terms of section 21(2);
 - 19.2. identify all restrictions, conditions, exclusions and directives currently relied upon by the Department in implementing section 21(2);
 - 19.3. identify all current categories of entities receiving real-time, batch, API-based or other verification access to population-register information;
 - 19.4. confirm whether biometric information is furnished, queried, verified, matched or otherwise processed in relation to any private or non-state entities;
 - 19.5. provide copies of all applicable directives, internal policies, agreements, standards, memoranda, protocols or access frameworks governing such furnishing of information;
 - 19.6. confirm whether the Department has obtained, considered or sought prior authorisation from the Information Regulator in terms of POPIA where required;
 - 19.7. confirm whether privacy-impact assessments, cybersecurity assessments or constitutional-compliance assessments have been conducted;
 - 19.8. identify the statutory and constitutional safeguards relied upon to prevent commercialisation, profiling, unlawful disclosure, secondary use, cross-linking, mass querying or abuse of population-register information;



- 19.9. indicate whether the Minister intends introducing constitutionally compliant regulations comprehensively governing the implementation of section 21(2);
- 19.10. indicate whether the Minister intends suspending, restricting or reconsidering the current implementation of section 21(2) pending constitutional review and regulatory reform.
20. Kindly further take notice that should the Minister fail to adequately address the constitutional concerns identified herein within 30 days from date of receipt hereof, LFN intends approaching the High Court for appropriate constitutional and declaratory relief, which may include, *inter alia* —
- 20.1. a declaration that section 21(2), alternatively portions thereof are unconstitutional;
- 20.2. alternatively, a declaration that the current regulatory regime governing section 21(2) is constitutionally deficient and unlawful;
- 20.3. alternatively, a declaration that the current implementation of section 21(2) is unlawful due to the absence of constitutionally adequate prescribed safeguards;
- 20.4. review and setting aside relief in relation to regulation 15(d) and/or related disclosure practices;
- 20.5. structural interdictory relief;
- 20.6. mandatory relief compelling the prescription of constitutionally compliant safeguards;
- 20.7. further ancillary and alternative relief.



21. LFN trusts that the Minister appreciates the gravity of the constitutional issues raised herein. These concerns affect not merely administrative procedure, but the foundational relationship between the State, identity infrastructure, constitutional privacy, personal autonomy and the lawful protection of civic identity information belonging to every individual in the Republic.
22. LFN reserves all rights *in toto*.

Yours Faithfully,



Reyno D. De Beer

President: Liberty Fighters Network

On behalf of our members and acting in Public Interest

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2026-238536**

In the matter between:

LIBERTY FIGHTERS NETWORK, REYNO DAWID DE BEER N.O. Plaintiff / Applicant / Appellant

and

MINISTER OF HOME AFFAIRS, DR LEON AMOS SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE, DIRECTOR-GENERAL: DEPARTMENT OF HOME AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O., OR HIS SUCCESSOR IN TITLE Defendant / Respondent

Annexure 06

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29/9/2026-8:56:05 AM

Subject: REMINDER – FORMAL NOTICE OF CONSTITUTIONAL CONCERN AND DEMAND FOR URGENT INTERVENTION: IDENTIFICATION ACT, 1997 AND IDENTIFICATION REGULATIONS, 1998

From: Reyno De Beer - LFN International <reyno@libertyfighters.org>

Date: 2026/05/28, 11:21

To: Anthula.higgins@dha.gov.za

CC: Carli VanWyk <carli.vanwyk@dha.gov.za>, Moses.Malakate@dha.gov.za, Ministerial Queries <ministerialqueries@dha.gov.za>, Reyno De Beer <debeerreyno@gmail.com>

Attention: The Minister of Home Affairs

Dr Leon Amos Schreiber

c/o Ms Anthula Higgins (Acting)

Dear Minister Schreiber,



KINDLY FIND ATTACHED a letter for your attention and response.

KINDLY confirm receipt.

--

PS: Kindly note the Important/Disclaimer Notice underneath our signature for your information.

Kind Regards,

Reyno De Beer

President: Liberty Fighters Network

Office: +27 (0) 72 745 2869

Mobile: +27 (0) 67 735 7288

Telegram News Channel: [@libertyfightersnews](#)

Facebook: [libertyfightersnetwork](#)

29/9/2026-8:56:05 AM

Twitter: [@LFN_SouthAfrica](#)

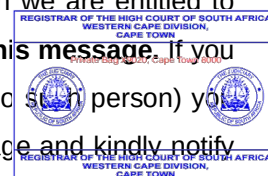
YouTube: [Reyno De Beer, Liberty Fighter #1](#)

Website: www.libertyfighters.org

Email: reyno@libertyfighters.org

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— Attachments: _____

260528-LFN Identification Act.pdf

423 kB

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IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: **2026-238536**

In the matter between:

LIBERTY FIGHTERS NETWORK, REYNO DAWID DE BEER N.O. Plaintiff / Applicant / Appellant

and

MINISTER OF HOME AFFAIRS, DR LEON AMOS SCHREIBER N.O., OR HIS SUCCESSOR IN TITLE, DIRECTOR-GENERAL: DEPARTMENT OF HOME AFFAIRS, LIVHUWANI TOMMY MAKHODE N.O., OR HIS SUCCESSOR IN TITLE Defendant / Respondent

Annexure 07

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29/9/2026-10:24:07 AM

Subject: Read: REMINDER – FORMAL NOTICE OF CONSTITUTIONAL CONCERN AND DEMAND FOR URGENT INTERVENTION: IDENTIFICATION ACT, 1997 AND IDENTIFICATION REGULATIONS, 1998
From: Carli VanWyk <Carli.VanWyk@dha.gov.za>
Date: 2026/05/28, 19:07
To: Reyno De Beer - LFN International <reyno@libertyfighters.org>

Your message

To: Carli VanWyk
Subject: REMINDER – FORMAL NOTICE OF CONSTITUTIONAL CONCERN AND DEMAND FOR URGENT INTERVENTION: IDENTIFICATION ACT, 1997 AND IDENTIFICATION REGULATIONS, 1998
Sent: Thursday, May 28, 2026 12:16:25 PM (UTC+02:00) Harare, Pretoria

was read on Thursday, May 28, 2026 7:07:17 PM (UTC+02:00) Harare, Pretoria.

Final-recipient: RFC822; Carli.VanWyk@dha.gov.za
Disposition: automatic-action/MDN-sent-automatically; displayed
X-MSEch-Correlation-Key: PGRIVf2Jq0qBm1WiTmCCBg==
Original-Message-ID:
<1a268e29-7e26-40c2-8a0e-95660257ce11@libertyfighters.org>
X-Display-Name: Carli VanWyk

