

# 1. INTRODUCTION

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Welcome to training for NGOs on the **Promotion of Administrative Justice Act, No. 3 of 2000 (AJA)**. This training is designed to **help you in your work** in the way you relate to government. This workbook has been written not just as a workshop guide, but as an **information resource, for you to refer back to often** and refresh your understanding of the AJA.

We are going to talk about ways in which the AJA can assist you to deal with problems you encounter, and the way it empowers you to act on behalf of citizens. You will learn how to **use the AJA to challenge administrators** when they fail to do their job properly.

First we are going to look at the background and context to the AJA. We will look at the constitution and legal framework of the Act, and the Batho Pele policy – what government is doing to improve the relationship between administrators and the public. Before discussing why the AJA (and other law and policy) is important, it will help you to understand why these have been passed if you think about your relationship with the administration and civil servants.

To focus on this question, your facilitator will ask you to complete Exercise 1, below.

## **EXERCISE 1 – CIVIL SERVANTS & NGOS**

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Depending on the amount of time available for the workshop you are attending, your facilitator will either break you into small groups to do this exercise, or will run the exercise as a brainstorm.



### **BY THE END OF THIS SECTION**

You should:

- Understand the focus and purpose of this training on the AJA.
- Understand what is meant by the terms 'administration' and 'administrator';
- Be aware of your own relationship, and the relationship of your organisation to the administration.



## **Dealing with the civil service – Your personal story**

Write up a case story of your personal experience of a problem that you had in dealing with the administration.

### **What was the problem?**

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### **Who were the parties involved?**

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### **What was done about the problem?**

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### **Was it resolved? What happened? Where is it now?**

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## **Dealing with the civil service – Your organisational story**

Write up a case story of your organisation's experience of a problem that you had in dealing with the administration.

### **What was the problem?**

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### **Who were the parties involved?**

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### **What was done about the problem?**

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### **Was it resolved? What happened? Where is it now?**

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We've all heard the negative things people have to say about civil servants. Much of this criticism is based on the way the public service has worked in the past – being rude and uncaring, taking forever to make decisions and then not properly explaining these decisions to members of the public.

These are not just criticisms that the public has of the administration. Civil servants themselves have similar complaints about the administration, and are well aware of the public's perception of them.

Recent laws (the **Constitution and the AJA**) and an important policy (the **Batho Pele White Paper**) have attempted to improve not only the services offered by the administration, but also the way members of the public view administrators themselves.

This Workbook has been written to help you as an NGO worker relate more effectively with administrators, and to empower you to assist citizens with problems they encounter in their daily lives.

Training is also being offered to administrators on the AJA. By equipping “both sides” we can help improve the relationship between government and the people. Thus, **the Workbook is not simply about the AJA. Instead, it is really about how to inform and assist members of the public to assert their rights**, and to improve and better manage their relationship with the administration.

The Workbook will help you understand how administrators do their job. In the process, it will also outline clearly how to comply with the new policy and laws, and **how to access the service you need from civil servants**.

In the Workbook, we deal with the following:

- Chapters 2 & 3 – look at the **legal background and context of the AJA**. We will look at some important parts of the Constitution, the Batho Pele principles and the AJA itself.
- Chapter 4 – examines **how administrators do their jobs**, to give you an understanding of the way decisions have to be made in terms of the AJA. We will consider empowering provisions, what administrators need to know to make a decision, and how they decide.



## **'ADMINISTRATION' AND 'ADMINISTRATORS'**

The administration does the day-to-day work of government and is commonly known as the 'public service' or 'civil service'. It is made up of:

- All government departments at national, provincial and local levels;
- The police and the army; and
- The 'parastatals'. These are organisations such as public enterprises and regulatory boards. Examples are Eskom, Telkom and the SABC.

Section 1 of the AJA says an administrator is “an organ of state or any natural or juristic person taking administrative action”. Put simply, this means any person within the administration who takes decisions that amount to an administrative action. This could include Ministers, Directors-General, Directors, Assistant Directors and clerks.

- Chapters 5, 6 & 7– Take you as an NGO through the process of **responding to first and second notices under the AJA**, and finally through **steps for requesting reasons**. Both the Constitution and the AJA require administrators to give written reasons for their decisions. In this part of the Workbook, we will show you how to get these reasons from administrators.
- Chapter 8 – covers the processes of **internal appeal**. You are required by law to make use of any internal appeal which is available before you consider court action..
- Chapter 9 – takes a look at **Section 4 decisions** under the AJA - where groups of people rather than individuals are affected. This part of the law, both in the Act and the regulations, is hazy in its details.
- Chapter 10 – examines **judicial review**. its possibilities and pitfalls, and alternatives to court action. In this section, we look at what a person who is not satisfied with an administrative action can do to take further action. This last part is a fertile area of possible involvement for NGOs.
- Chapters 11 and 12 – are practically focused on the implementation of everything you have learned up to this point. They include some exercises to get **NGOs strategising and working together around the AJA**.
- Chapter 13 – gives our answers to the exercises in the manual. Should you disagree with any of the answers offered, please write to us at [ian@accord.org.za](mailto:ian@accord.org.za) and offer your perspective.
- Chapter 14 – covers the **Promotion of Access to Information Act**, which has the potential to greatly enhance the impact of the AJA, when used together with the AJA. The AIA is a considerably more complicated Act than the AJA, so this section just gives you an overview of the important information you need to know to bring an application for information.
- Chapter 15 – includes a number of **resources**, such as the latest version of the AJA, and the Regulations to the Act.