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Southern Cape NPC (Reg No: 2015/352916/08)

“Sustainable Inclusive Economy”

Document Name: POPI Act

Issue: A

Date: 2021.07.01

Type of Documentation: Policy

Classification: Public

POLICY: PROTECTION OF PRIVATE INFORMATION (POPI) ACT

EXECUTIVE SUMMARY

Privacy Notice - The George Business Chamber respects and acknowledges the privacy of personal information and is committed to protect the personal information of its members and external collaborators. Our Privacy Policy applies to all persons (both natural and juristic, sole traders, companies and close corporations whose personal information we might collect during our business processes, regardless of form and medium. This includes our members employees, other business chamber groupings, consultants, agents, subject matter experts and service providers, and apply to all our services and related websites.

Personal data will only be used for the purpose it was collected for and only where we have written permission to use it for chamber business purposes.

According to the promulgated regulations, persons whose information is gathered during normal business interactions have the right to opt in or out of subsequent marketing communications and have information deleted or corrected on the marketing database of the Chamber. The Business Chamber will honour all the related personal rights granted to individuals under the Constitution of the Republic of SA and specifically POPI Act, including abide by the formal dispute resolution process of the Regulator if invoked against us.

Purpose of the Act - The POPI Act is founded on a set of eight core information protection principles that have evolved over time in various jurisdictions around the world. These jurisdictions include the European Union and the regions belonging to the Organisation for Economic Cooperation and Development (OECD), the Commonwealth and the Asia-Pacific Economic Cooperation (APEC).

Over the years, the principles contained in the Act have become recognised as the leading practice baseline for effective data privacy regulation around the world. They are generally believed to reflect an acceptable compromise between the right to privacy and the legitimate need to use personal information for private sector business purposes and the duty of both the public and private sectors to give effect to the equally fundamental right of access to information on the other hand.



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LEGAL COMPLIANCE

"The POPI Act is a comprehensive privacy law that is mandatory for all businesses within the private and public sector that process personal information in South Africa and became effective on 1 July 2021. It seeks to protect and regulate the processing of personal information, falling into the broader Constitutional right to privacy.

The goal of the POPI Act is to protect data subjects from security breaches, theft, and identification.

The following eight information protection principles contained in the Act will at all times be included in our Standard Operating Procedures:

1. Purpose specification: Personal information must be collected for a specific, explicitly defined and lawful purpose related to a function or activity of the responsible party. The responsible party must take steps to ensure that the data subject is aware of the purpose for which his/her personal information is being collected;
2. Further processing limitation: this is where personal information is received from a third party and passed on to the responsible party for further processing. In these circumstances, the further processing must be compatible with the purpose for which it was initially collected;
3. Information quality: the responsible party must take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary, taking into account the purposes for which it was collected;
4. Openness: Personal information may only be processed by a responsible party that has notified the Information Protection Regulator. Further certain prescribed information must be provided to the data subject by the responsible party including what information is being collected, the name and address of the responsible party, the purpose for which the information is collected and whether or not the supply of the information by that data subject is voluntary or mandatory;
5. Security safeguards: the responsible party must secure the integrity of personal information in its possession or under its control by taking prescribed measures to prevent loss of damage to or unauthorised destruction of personal information and unlawful access to or processing of personal information;
6. Data subject participation: A data subject has the right to request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject and request from the responsible party that the record or a description of the personal information held, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to that information.

A data subject may request a responsible party to

- Correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, misleading or obtained unlawfully; or
- Destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain.

7. Accountability: the responsible party must ensure that the eight information processing principles are complied with;

8. Processing limitation: processing must be lawful and personal information may only be processed if it is adequate, relevant and not excessive given the purpose for which it is processed.



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FREQUENTLY ASKED QUESTIONS:

Transborder /nformation flows - Am I allowed to send personal data abroad and can data from other countries be sent to SA?

Yes, but there are restrictions on the sending of personal information outside South Africa as well as on the transfer of personal information back to South Africa. The applicable restrictions will depend on the laws of the country to whom the data is transferred or from where the data is returned, as the case may be.

Do I need to provide an opt in or opt out/or direct marketing

Yes. Responsible parties should make use of both opt in and opt out options to make sure that the data subject understands and knows what he or she is consenting and objecting to.

For how long do I need to retain personal information under the POPI Act?

Subject to exemptions provided for in the POPI Act, personal information must not be retained (any) longer than (is) necessary for achieving the purpose for which the information was collected.

In addition, if a responsible party has used the personal information of a data subject, to make a decision about the data subject, it must retain the record for such period as may be required or prescribed by law or a code of conduct. If there is no law or code of conduct prescribing a retention period, it must retain the record for a period which will afford the data subject a reasonable opportunity to request access to the record.

A responsible party must destroy or delete a record of personal information or de-identify it as soon as reasonably practicable after the responsible party is no longer authorised to retain the record.

DEFINITIONS OF TERMS USED IN THE POPI ACT

PERSONAL INFORMATION

Personal information is extremely widely stated and includes any information that can identify a person can include the following personal data items:

Recording and storage of a person's name, address, phone number, email address, gender, religious affiliation, political affiliation, employee details, bank details, credit card number, medical records, a photograph of a person. a video recording of a person, whether CCTV or otherwise,

Processing is also very widely stated and includes a vast number of activities whether or not undertaken by automatic means, concerning personal information.

A -record is also any recorded information regardless of form or medium in the possession or under the control of a responsible party, whether or, not it was created by a responsible party and regardless of when it came into existence.

Lawful processing other than ordinary information of a data subject - A higher degree of protection is given to the processing of special personal information under POPI given the highly sensitive nature of such information. Special personal information includes information concerning a child and special personal information concerning the religious or philosophical beliefs, race or ethnic origin, trade union membership, political opinions, health, DNA, sexual life or criminal behaviour of a data subject. Processing of the information of children is not permitted under the law.



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RESPONSIBLE PARTY

Means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information.

DATA SUBJECT

It refers to the person to whom personal information relates."

FILING SYSTEM

Refers to any structured set of personal information, whether centralised, decentralised or dispersed on a functional or geographical basis, which is accessible according to specific criteria.

DATA AND ELECTRONIC COMMUNICATION

The term "electronic communication" is mentioned extensively in the POPI Act and understanding the broader communication methods this covers is essential.

What it refers to is any image message, text, SMS, voice note, sound or form of communication with a customer via an electronic communication network or device.

Unsolicited electronic communication in any of these forms is prohibited unless; the person is already on your database as an existing customer; has provided consent to receive direct marketing and your organisation received that consent in the right manner and form; and if the customer hasn't withheld consent in the past.

A clear understanding of the data you possess is a very important extension of using electronic communication channels compliantly.

You cannot effectively protect customer data in line with the POPI Act if you don't accurately document the categories of data subjects (including HR, sales, and marketing) within your company and describe the personal information that is processed for each.

Using the categories of data subjects you've defined, you can map the flow of personal information within your business, including external parties that have access to that information.

COMPLIANCE FRAMEWORK

Five steps to implement POPI Act compliance of the Business Chamber:

- Appoint or reassess the role of the information officer — DJ Breytenbach, in abeyance of the regulators' registrations process.
- Create awareness — Done, with our privacy statement distributed on 1 July 2021. Is also be displayed on our website along with our POPI policy.
- Develop a compliance framework, which can include processes and actions deployed.
- Personal information classification assessment — included in the framework.
- Implementation — 1 July 2021.

The framework for maintenance of compliance address major areas where outcomes will be measured and overseen as part of the Management Board agenda:

Directors of the Board: Dr WHJ Cilliers Ms B Vorster, Mr H Grobler, Mr T Adams, Mr K Sharpe, Mr J Jumat, Prof Adele Potgieter



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| Regulation | Governance Measures | Functional Area | Resp | Organizational Risks | Risk Mitigation Outcome implemented | Accountable Risk Owner. | Audit Re-evaluation | Outcome Achieved |
|---------------------------------------|---|-----------------|------------------|---|--|-------------------------|--|------------------|
| Policy | Developed | Executive | Chair, IO | Non- compliance | Policy developed and included in Board oversight agenda. | Chair | Annual Policy Review | |
| Compliance | Overseen by Board as a SOP Alignment of internal IT procedures | Executive | Chair, IO | Fines by Regulator for non-compliance Loss of reputation and credibility | Officials trained and policy Issued. | Chair | Included in annual compliance Audit Item | |
| Filing system - Physical data storage | Physical files stored in locked office | Marketing | GM Marketing, IO | Theft and loss of data | Office and filing cabinet under lock and key | GM | Annual review | |



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|--|--|--------------------|--------------------------------|---|--|--------|--------------------------------------|--|
| Filing system - Electronic data Safety | Computer access limited | Admin & Finance | Chair, GM, IO | Data leakage and theft | All computers are PW protected and accessible to a dedicated official of the chamber only. | Chair, | Annual review | |
| Training | Policy | Admin | Chair, GM, Treasurer, IO | Data breaches | Included in training plan. | Chair | Annual update of training plan | |
| Awareness | Privacy Notice to and training of officials | | GM | Lack of Trust | Privacy notice distributed. | Chair | Annual review of notice | |
| Electronic Processing | OPT IN or OPT Out option embedded on all e- mails | Marketing Admin | GM, TO | Outright Non- compliance with sanctions from Regulator | All e-mail signatures of Official of the Chamber and Contracted staff to contain the OPT IN or OPT OUT option. | IO | Annual review | |



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Compliance is not a once-off “cut and paste” solution. It is an ongoing change management effort that requires constant evaluation and updating of the procedures, staff POPI training, software changes and technology within the organization.

DATA Classification

all member data are classified as “Restricted” for processing by the officials and assigned contractors of the chamber only. This data include:

Company Name, Company Registration Number, Contact Numbers, E-mail address, Website and business category.

Currently the officials of the business Chamber are the following: Chairperson, Manager and Secretary. Members of the Management Board can get temporary access assigned during a project that requires member or financial data to be accessed.

POPI internal process

HR and Member data received are captured in the chamber member data base in the normal business interaction and processes, as well as the financial software system for processing of invoices and financial management. The Chamber’s databases are PW protected and intrusion protected by the chamber’s IT system firewall and malware software. All data on the Chamber systems will be purged at time of expiry as prescribed by the SARS and Information Regulator regulations.

POPI external process

all member (data subjects) information processing will be subject to the required OPT IN or OPT OUT option and complaints and enforcement will be subject to the formal complaints and dispute resolution (mediation and conciliation) process provided by the Regulator.

THE REGULATOR

The Information Regulator is a juristic body that was appointed in the terms of POPI Act and will have wide ranging powers and duties, including:

- to educate the public about POPI
- to monitor and enforce compliance with POPI
- to handle complaints about alleged violations of the protection of personal information of data subjects;
- to attempt to resolve complaints by means of dispute resolution mechanisms such as mediation and conciliation and
- to issue from time to time codes of conduct and make guidelines to assist bodies to develop codes of conduct or apply codes of conduct

Sanctions for non-compliance

Sanctions include fines and imprisonment as well as administrative fines up to 1-million

Transitional provisions provided for by POPI

Processing of personal information which is taking place on the date when POPI comes into force and does not conform to POPI must comply within one year of such date.



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Regulator contact details:

Physical address: JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001 Postal address: P.O Box 31533, Braamfontein, Johannesburg, 2017

Enquiries: inforeg@justice.gov.za

Website for guidelines and documents: <https://www.justice.gov.za/inforeg/docs.html>

APPLICABILITY OF THE POPI ACT TO THE BUSINESS CHAMBER

The George Business Chamber is a voluntary not for profit organization of its members and as such do not have customers but rather members. All member data stored are under lock and key in an office or password protection in the case of computer systems. No automated computer systems are deployed for financial transacting or marketing purposes.

The Business Chamber will under no circumstances sell personal information to 3^d parties.

Cold calling or direct marketing is a divisive subject and there are some questions whether or not a business chamber falls under the POPIA mandate for marketing its members internally, or if it is even allowed as it uses personal communication to engage with potential new members.

The bottom line is, all organisations are still required to obey the mandates outlined by the Consumer Protection Act 68 of 2008, and customers still have the right to stop cold callers from engaging with them.

Any consumer requests to prevent cold calling must be respected as the law is on the consumer's side in this regard, not the business.

The best way to connect with members when prospecting is to ensure that your approaches are aligned with regulations. This means that prospective members must be afforded the opportunity to opt in or out of the communication by providing consent before you can engage with them using any form of electronic communication.

For the sake of compliance, the Drakenstein Business Chamber will attempt to fully comply until the Regulator can clarify our applicability.

ALIGNMENT WITH OTHER ACTS

Processing of personal information was already regulated by the Electronic Communications and Transactions Act 25 prior to the promulgation of the POPI Act. Additional applicable acts:

- Protection of Personal Information Act of 2013 (Act 4 of 2013) - POPIA
- Promotion of Access to Information Act of 2000 - PAIA
- Consumer Protection Act 68 of 2008
- National Credit Act 34 of 2005"

The POPIA Act pull all the applicable threads together to ensure that customers are protected, but also to ensure that you are protected.

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It doesn't prevent marketers from selling or cold calling, it just prescribes how you should approach it and what methods you use to achieve your sales goals.

BENEFITS TO THE ORGANIZATION

Compliance reassures our customer base of our commitment to their privacy and to the ethical management of their data.

POPI Act compliance can potentially offer our organisation an opportunity to deliver better customer experiences and services.

It can reinforce our reputation as a trusted organization and to ensure that our communication is always aligned with regulation and compliance mandates.

With the required data privacy team on board at our organization, compliance can be smoothly maintained when representatives from each data subject category, and from functional areas — such as technology, operations and information security — are engaged as part of the process.