



## **Summary of Protection of Personal Information Act Regulations 2018**

### **Purpose of this document**

The purpose of this document is to provide a summary of the PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO. 4 OF 2013): REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION (Regulations) which were published in December 2018 and to provide an easy to read tabular view of a summary of the use of the forms contained in the Regulations. It is recommended that this document is read in conjunction with the Regulations and amendments thereto.

### **Effective date**

Please note that at the time of publication of the Regulations in the Government Gazette in December 2018 the effective date had not yet been announced.

### **Responsibilities of information Officers**

The regulations include a section on the responsibilities of the Information Office role. The Regulations provide a summarised description of the role. We recommend that an Information Officer appointment letter, which includes the designation and delegation of Deputy Information Officers, is established in order to formalise these roles. Key points relating to the responsibilities of the Information Officer contained in the Regulations are:

- A compliance framework is developed, implemented, monitored and maintained
- A personal information impact assessment is done to ensure that adequate measures and standards exist in order to comply with the conditions for the lawful processing of personal information
- A manual (a PAIA manual) is developed, monitored, maintained and made available as prescribed in sections 14 and 51 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (aka PAIA)
- The Information Officer shall upon request by any person, provide copies of the manual to any person upon the payment of a fee to be determined by the Regulator from time to time
- Internal measures are developed together with adequate systems to process requests for information or access thereto
- Internal awareness sessions are conducted regarding the provisions of the Act, regulations made in terms of the Act, codes of conduct, or information obtained from the Regulator.

These requirements in the Regulations are intended to complement and not replace the provisions in the POPI Act concerning the Information Officer (see section 54 to 56).

In terms of the forms where possible, recommended actions have been provided. This is not possible where forms that are intended to be used by the Information Regulator South Africa (Regulator) exist. These have been included for completeness so that readers will have a summarised view of the purpose of these forms as well as actions that the Regulator should take.



**Table 1: Summary of Forms**

<b>Form No</b>	<b>Form Purpose</b>	<b>Form Name</b>	<b>Context and Recommended Action</b>
1	Objection to the processing of personal information	Objection to the processing of personal information In terms of Section 11(3) of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>As a data subject, If you wish to object to the processing of personal information by an organisation, you must use Form 1 to submit your objection;</li> <li>As a responsibility party, you should establish a process for enabling data subjects to subject an obligation using Form 1. This must be offered as a free service</li> </ul>
2	Request for correction or deletion of personal information or destruction or deletion of record of personal information	Request for correction or deletion of personal information or destroying or deletion of record of personal information In terms of Section 24(1) of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>As a data subject, if you wish to submit a request for the correction or deletion of personal information, must submit the request to the responsible party using Form 2</li> <li>As a responsible party you must establish a process for enabling data subjects, free of charge, to submit a request for the correction or deletion of using Form 2</li> </ul>
3	Application for Issuing code of conduct	Application for the issue of a code of conduct in terms of section 61(1) (b) of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>As an industry body or similar body, if you wish to apply for the issuing of a code of conduct, you must submit an application to the Regulator using Form 3</li> <li>As a Responsible Party you should consider this form when motivating a Code of Conduct to your industry body</li> </ul>
4	Request for data subject's consent to process personal information	Application for the consent of a data subject for the processing of personal information for the purpose of Direct Marketing In terms of Section 69(2) of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>As a Responsible Party if your organisation wishes to process the personal information of a data subject for the purpose of direct marketing by electronic communication, you must use this form to obtain a data subject's consent</li> </ul>
5	Submission of complaint	Complaint regarding interference with the protection of personal Information/complaint regarding determination of an adjudicator in	<ul style="list-style-type: none"> <li>Any person who wishes to submit a complaint in terms of section 74 of the Act must submit such a complaint to the Regulator on Part I of Form 5</li> <li>A responsible party or a data subject who wishes to submit a complaint must submit such a complaint to the Regulator on Part II of Form 5.</li> </ul>



		Terms of section 74 of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	
6	Regulator acting as conciliator during investigation	Notice to parties: conciliation meeting regarding interference with the protection of personal information in terms of section 76 of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>• If the Regulator decides during an investigation to act as a conciliator, the Regulator must inform the data subject and responsible party implicated using Form 6</li> <li>• As a responsible party you may expect to receive this form as appropriate</li> </ul>
7	Conciliation Certificate	Notice to parties: conciliation regarding interference with the protection of personal information in terms of section 76 of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>• The Regulator must issue a conciliation certificate on Form 7 within a reasonable time after the date of the conclusion of the conciliation meeting</li> <li>• As a responsible party you may expect to receive this form as appropriate</li> </ul>
8	Pre-investigation proceedings of Regulator	Notice to parties of intention of Regulator to investigate a complaint In terms of section 79 of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>• If the Regulator intends to investigate any matter contemplated in Chapter 10 of the Act, the Regulator must in terms of section 79 of the Act, notify the parties to whom the investigation relates of such intention on Part I of Form 8 prior to conducting the investigation.</li> <li>• The Regulator must inform the responsible party to whom the investigation relates on Part II of Form 8 of the complaint, or the subject matter of the investigation, and must inform the responsible party of the right to submit a written response to the complaint or the subject matter of the investigation within the time allocated by the Regulator.</li> <li>• As a responsible party you may expect to receive this form as appropriate</li> </ul>
9	Settlement of complaints: Settlement Meeting	Notice to parties: settlement meeting regarding interference with the Protection of personal information in terms of section 76 of the Protection of Personal Information	<ul style="list-style-type: none"> <li>• The Regulator must, as soon as it is practically possible, inform the data subject and the responsible party on Form 9 of the date, time and place of the settlement meeting.</li> <li>• As a responsible party you may expect to receive this form as appropriate</li> </ul>



		Act, 2013 (Act no. 4 of 2013)	
10	Settlement Certificate	Notice to parties: settlement regarding interference with the protection of personal Information in terms of section 76 of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>The Regulator must issue a settlement certificate on Form 10 within a reasonable time after the date of the conclusion of the settlement meeting.</li> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>
11	Request for an Assessment	Request for an assessment Section 89 (1) of the Protection of Personal Information Act 4 of 2013	<ul style="list-style-type: none"> <li>As a responsible party you may expect to use this form to submit a request for an assessment</li> <li>The Regulator must inform the requester on Part II of Form 11 if it has decided to conduct an assessment</li> </ul>
12	Assessment Notification	Notification: Section 89 of the Protection of Personal Information Act (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>The Regulator must notify the requester or the responsible party (if not the requester) of any decision made, or action taken, or view formed on Form 12.</li> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>
13	Informing the parties of developments regarding investigation – advise that an enforcement notice will not be issued	Notice to parties not to issue an enforcement notice In terms of Section 94 of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>During the course of an investigation, the Regulator must keep the complainant, the data subject (if not the complainant) and the responsible party informed of the developments of the investigation as well as the result of the investigation.</li> <li>Notifications must be served at the designated addresses of the complainant, the data subject and the responsible party advising on Form 13 that that an enforcement notice will not be issued</li> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>
14	Advice that a complaint has been referred to the Enforcement Committee	Referral to enforcement committee in terms of section 92 of the Protection of Personal Information Act 4 of 2013) Regulations relating to the Protection of Personal Information, 2018	<ul style="list-style-type: none"> <li>If a complaint has been referred to the Enforcement Committee, the Regulator must advise the parties on Form 14</li> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>
15	Serving of an Enforcement Notice	Enforcement notice in terms of Section 95 of the Protection of	<ul style="list-style-type: none"> <li>If an Enforcement Notice has been served, the Regulator must advise the parties on Form 15</li> </ul>



		Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>
16	Cancellation of an Enforcement Notice	Cancellation or variation of enforcement notice Section 96 of the Protection of Personal Information Act (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>If an Enforcement Notice has been cancelled or varied, the Regulator must advise the parties on Form 16</li> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>
17	Notice of Appeal	Notice of appeal Section 97 of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>If an appeal has been lodged, the Regulator must advise the parties on Form 17</li> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>
18	Notice that an appeal against an enforcement notice has been allowed	Substitution or setting aside of enforcement Notice Section 98 of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013) Regulations relating to the protection of personal information, 2018	<ul style="list-style-type: none"> <li>If an appeal has been allowed, the Regulator must advise the parties on Form 18</li> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>
19	Notice of Dismissal	Form 19 Notice of dismissal of appeal: Section 98 Of the Protection of Personal Information Act , 2013 (Act no. 4 of 2013)	<ul style="list-style-type: none"> <li>If an appeal has been dismissed, the Regulator must advise the parties on Form 19</li> <li>As a responsible party you may expect to receive this form as appropriate</li> </ul>

For a full copy of the Government Gazette announcing these regulations and for further information please visit the Information Regulator South Africa web site at <http://www.justice.gov.za/inforeg/>

**Correct as at January 2019**

Please note this document is not legal advice but a practical interpretation to help Responsible Parties and their Information Officers and Data Subjects to make best use of the Regulations

**For further information re this document**

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