



**INFORMATION
REGULATOR
(SOUTH AFRICA)**
*Ensuring protection of your personal information
and effective access to information*

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THE INFORMATION REGULATOR SOUTH AFRICA: ITS MANDATE AND PROGRESS

The Information Regulator South Africa is established in terms of section 39 of the Protection of Personal Information Act 4 of 2013 (POPIA). The Regulator is responsible for the promotion and protection of the right to privacy as it relates to the protection of personal information and the right of access to information. In this regard the Regulator has a dual mandate and thus exercises its powers and functions in accordance with POPIA and the Promotion of Access to Information Act 2 of 2000 (PAIA).

The POPIA was put into effect incrementally, when a number of sections of the Act became effective in April 2014. Some of these sections include those relating to the establishment of the Information Regulator (Regulator). The Members of the Regulator took office on 1 December 2016 and have made great strides in the establishment of the institution.

On 22 June 2020, the President of the Republic of South Africa issued a proclamation which brought into effect the remaining sections of POPIA on 1 July 2020. Responsible parties have a grace period of one year from 1 July 2020 to 1 July 2021 to comply with POPIA. At the end of this grace period, the enforcement powers of the Regulator will come into effect.

The mandate of the Regulator is broad and includes monitoring and enforcing compliance by public and private bodies with the provisions of POPIA and providing advice upon request or on own initiative, to a Minister or a public or private body on their obligation under the provisions, and generally on any matter relevant to the operation of POPIA. In pursuit of its mandate, the Regulator has issued a number of guidance notes on various aspects of POPIA. These guidance notes include the following and are accessible on the Regulator's website <https://www.justice.gov.za/inforeg/index.html>

- Guidance note on use of personal information of voters by political parties for voting purposes;
- Guidance Note on the processing of personal information in the management and containment of Covid19 Pandemic;



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- Guidelines on the development of codes of conduct to assist bodies to develop or apply codes of conduct approved by the Regulator and the standard relating to the making and dealing with complaints under approved codes of conduct;
- Guidance Note on Application for Prior Authorisation to guide responsible parties who intend to apply for prior authorisation from the Regulator before processing information which requires such authorisation; and
- Guidance Note on Information Officer and Deputy Information Officers to guide public and private bodies who are required to register their Information Officers with the Regulator before they take up their duties under POPIA.
- These Guidance Notes are available on the website of the Regulator.

The Regulator is counting down less than 100 days to the deadline for public and private bodies to ensure that their processing of personal information conforms to POPIA. In preparation for the full implementation and enforcement of POPIA on 1 July 2021, the Regulator has prioritised the development of the above mentioned guidance notes and others such as the Guidance Note on exemptions from conditions for the processing of personal information. The Guidance Notes were developed in tandem with robust stakeholder engagements, in an effort to assist stakeholders with the understanding of POPIA to enable them to be compliant at the end of the grace period.

POPIA gives the Regulator effective enforcement powers to take action against responsible parties who process personal information of data subjects in breach of the conditions for the lawful processing of personal information provided therein. It also provides a remedy for data subjects, whose personal information has been unlawfully processed. Failure to comply with certain provisions of POPIA may result in the Regulator imposing an administrative fine of up to R10 million or upon conviction, imprisonment for a period not exceeding 10 years, or to both a fine and imprisonment.

The Regulator will, over and above its enforcement powers coming into effect on 1 July 2021, embark on another important milestone. It will assume the responsibility of monitoring and



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enforcing PAIA. The South African Human Rights Commission has performed these functions for the last nineteen (19) years.

The Regulator is a new organisation which is in the early stages of its establishment. As expected, it has and continues to experience a number of challenges, including lack of adequate resources. However, these challenges will not deter it from fulfilling its vision, namely to be a world class institution in the protection of personal information and the promotion of access to information.

ISSUED BY THE INFORMATION REGULATOR OF SOUTH AFRICA