

# What you need to know about **POPIA & PAIA**

Protection of Personal Information Act  
Promotion of Access to Information Act



**INFORMATION  
REGULATOR  
(SOUTH AFRICA)**

*Ensuring protection of your personal information  
and effective access to information*



[www.inforegulator.org.za](http://www.inforegulator.org.za)

# WHO IS THE INFORMATION REGULATOR?

The Information Regulator is an independent body established in terms of section 39 of the Protection of Personal Information Act 4 of 2013 (POPIA). It is subject only to the law and the constitution and it is accountable to the National Assembly.

The Information Regulator is, among others, empowered to monitor and enforce compliance by public and private bodies with the provisions of the Promotion of Access to Information Act 2 of 2000 (PAIA), and POPIA.

The Information Regulator is tasked to promote two human rights, which are the protection of personal information and ensuring the right of access to information. More information on the two rights is as follows:

## Protection of personal information

The Information Regulator is responsible for overseeing and enforcing compliance with POPIA, which is aimed at protecting the privacy

and personal information of all persons. The Information Regulator's role includes promoting the responsible and lawful handling of personal information by responsible parties, investigating complaints related to the unlawful processing of personal information, and imposing penalties for non-compliance with POPIA.

## Promotion of access to information

In addition to its role in protecting personal information, the Information Regulator is also responsible for promoting the right of access to information as enshrined in the Promotion of Access to Information Act. The Information Regulator ensures that public and private bodies comply with PAIA, which allows individuals to request access to information held by these entities, subject to certain limitations and exemptions.

# PROTECT YOUR PERSONAL INFORMATION.

## What does POPIA mean to you?

- It gives you power to exercise your constitutional right to privacy where your personal information is processed by another person or company.
- It gives you the power to protect your personal information if it is not processed lawfully or according to POPIA.

*The right to protect your personal information must be exercised in such a way that it balances with other rights as stated in the Constitution of South Africa!*

## What is "personal information"?

Information that relates to an identifiable living person, for example, name, surname, race, ID, age, language, e-mail address, physical address or biometric information of the person.

## What is processing of information?

When your information is collected, received, recorded, organised, stored, altered, distributed or shared for a certain purpose by a responsible party.

## Who is a responsible Party?

**Public body example:** Government departments

**Private body example:** Businesses

*The Act does not prevent any public or private body from performing their duties, but it requires that they do so lawfully!*

## How do I know if my personal information is processed lawfully?

- It is processed in a reasonable manner that does not violate my privacy,
- I gave permission for my personal information to be processed,
- It is done as a result of a contract I agreed to,
- If it is necessary and needed by a public body to perform their duty,
- It is processed in line with the 8 conditions for lawful processing

## It is important to know that

- You must be notified that your personal information is being collected and be given a reason for that.
- You must be provided with the name and address of the responsible party that requires your personal information.
- You must be informed if it is compulsory to give out your personal information or not.
- A responsible party must inform you what will happen if you do not want to give them your personal information.
- If you are required to give out your personal information, a responsible party must inform you if there is a law that requires them to ask for your personal information.
- If somebody else gave out your personal information, a responsible party must inform you who that person or responsible party is.
- If your personal information is going to be transferred to another person or responsible party for instance, you must be guaranteed that it will be protected.
- You can object or refuse to the processing of your personal information.
- You must be informed by a responsible party if your personal information has been acquired by unauthorised person.
- You have a right to find out if a responsible party has your personal information and you can request to see it.
- You can request a responsible party to correct your personal information.
- You can request a responsible party to destroy or delete your personal information because it was obtained unlawfully, or they are no longer authorised to retain or have it.

*The details of the sender, such as their address or contact information, must be available to enable you to stop receiving such communications if you are no longer interested. You should be able to opt out or unsubscribe free of charge if you are no longer interested!*

## With regards to religious beliefs, trade union membership or political persuasion etc:

- The processing of personal information is allowed if it is carried out by the organisation where you are a member and
- Your personal information is necessary for the organisation to achieve its aims or principles, unless you object or did not give them permission to do so.

*It is essential to ensure that your personal information is not shared with third parties without your consent. If you suspect any interference with your personal information, you have the right to submit a complaint to the Information Regulator.*

## The Act does not apply to certain activities such as the following,

- Processing of information for your personal or household activity.
- Processing of information by a public body which involves for example, national security where someone can assist in identifying a terrorist or prevent an unlawful activity from happening.
- Judicial functions of the court
- Processing of information for journalistic purposes, these are subject to the profession's code of ethics or a law.

# KNOW YOUR RIGHT TO INFORMATION.

## What does PAIA Mean to you?

It gives you the power to exercise your constitutional right to:

- Any information/record that a public body, private body or another person might have, that you might need to exercise your right or protect it.

*It must be done in a way that balances this right with other rights stated in the Constitution of South Africa.*

## What is a record?

Any information that is recorded and is in the possession of a person, public body or private body

## What are Public and Private Bodies?

**Public bodies:** refer to government departments, ministries, agencies, municipalities, and any other entities that are part of the public sector established by legislation and are responsible for providing public services or performing public functions.

**Private bodies:** encompass non-governmental organisations, private companies, partnerships, sole proprietors, and any other entities that are not part of the public sector. They are generally involved in commercial activities or providing services in the private sector.

## Why will I need to access certain information?

To exercise other rights or protect them.

## From whom should I request the information I need?

From the Information Officer (IO) or the designated person responsible for handling information requests within the public or private body.

## How do I request access to information from these bodies?:

- **Identify** the public or private body that holds the information you are seeking.
- **Obtain the contact details** of the Information Officer or the designated person responsible for handling information requests. This information is usually available on their website.
- Submit a **formal written request** for access to information by using the correct PAIA form 2.

*If you are unable to write, you should provide the required information on the form, and request the Information Officer to complete it on your behalf.*

- **Submit your request** to the Information Officer or the designated person via the designated delivery method and keep a copy of your request for your records.
- **Wait for a response regarding your request.** It may take up to 30 days to receive a response after the Information Officer has received your request.
- Should it take longer than 30 days, the Information Officer should **inform** you.
- If the request is granted, you will be given a **notice** that explains how the records will be given (a copy, view of visuals or recordings)

## What if the Information Officer refuses to give me access to the information or records requested?

The Information Officer or the designated person responsible for handling information requests must give you reasons for refusing you access to records or information held by the body.

### Typically, the following could be the reasons for refusal:

- The record does not exist.
- The security of another person might be compromised.
- The defence of the country might be compromised.
- The Act does not allow the public body or private body or official to release the records you are requesting.

**If you are dissatisfied with the reasons for the refusal to grant access to information or records by a private or public body according to your request, you have the following options:**

1. **Internal appeal:** You can initiate an internal appeal with the body from which you requested the information. If the appeal is unsuccessful, you may proceed to the next step. Please note that the internal appeal can be lodged with certain public bodies such as a government department or a municipality.
2. **Lodge a complaint:** You have the right to lodge a complaint with the Information Regulator. They will review the case and take appropriate action based on the circumstances. Alternatively, you can choose to proceed with the next option.
3. **Court application:** You have the option to make an application to a court, seeking their intervention in obtaining the requested information.

# HOW TO LODGE A **POPIA OR PAIA** COMPLAINT WITH THE INFORMATION REGULATOR?

## Lodging Complaints under the Protection of Personal Information Act

Should you feel that your personal information has been violated, a complaint to the Information Regulator must be made in writing by following these easy steps.

### 1. Gather information

Collect all relevant details and evidence related to the incident or situation that led to the potential infringement of your personal information rights.

### 2. Identify the responsible party

- Determine the specific organisation or individual responsible for the alleged violation. This could be a company, government entity, or any other entity that processes personal information.
- Lodge your complaint in writing to the Information Regulator by completing the prescribed **POPIA Form 5** downloadable from the Information Regulator's website [www.inforegulator.org.za](http://www.inforegulator.org.za) and email it to [POPIAComplaints@inforegulator.org.za](mailto:POPIAComplaints@inforegulator.org.za)
- This form will help you explain the nature of the complaint, including the specific violation of your personal information rights, the actions or omissions of the responsible party, and any relevant details that support your case.

- Should for any reason and circumstance the person wishing to lodge a complaint is not able to do so in writing, the Information Regulator will give reasonable assistance to the person.



*The more specific and detailed your complaint, the better equipped the Information Regulator will be to address it.*

### 3. After lodging a POPIA complaint with the Information Regulator

- The Information Regulator will investigate your complaint and take appropriate action. This may involve engaging with the responsible party, conducting inquiries, or even initiating legal proceedings, depending on the severity of the violation.
- The Information Regulator will update you regarding the progress or resolution of your complaint and any actions to be taken.
- The Information Regulator will as soon as reasonably practicable advise the complainant and the responsible party to whom the complaint relates of the course of action that the Information Regulator will take.
- The Information Regulator may on its own initiative commence an investigation into the interference with the protection of the personal information.

## Lodging Complaints under the Promotion of Access to Information Act

- A requester or third party may only submit a complaint to the Information Regulator after that requester or third party has exhausted the internal appeal procedure against a decision of the Information Officer of a public body or head of private body.
- Should your PAIA request be denied or there is no response from public or private bodies for access to records, a complaint to the Information Regulator must be made in writing.
- Should for any reason and circumstance the person wishing to lodge a complaint is not able to do so in writing, the Information Regulator must give reasonable assistance to the person.
- Lodge your complaint in writing to the Information Regulator by completing the prescribed PAIA Form 5 downloadable from the Regulator's website [www.inforegulator.org.za](http://www.inforegulator.org.za) and email it to [PAIAComplaints@inforegulator.org.za](mailto:PAIAComplaints@inforegulator.org.za)

### 1. After lodging a PAIA complaint with the Information Regulator

- The Information Regulator after receipt of your complaint may either investigate the complaint in the prescribed manner or refer the complaint to the Enforcement Committee.
- The Information Regulator will update you regarding the progress or resolution of your complaint and any actions to be taken.
- The Information Regulator may also decide to take no action on complaint if the case requires no further action.
- The Information Regulator will also as soon as reasonably possible after receipt of a complaint, advise the complainant and information officer or head of a private body to whom the complaint relates on the course of action that the Regulator proposes.



*Be able, upon request provide any additional information or clarifications the Information Regulator may require during the investigation process. This will help ensure a thorough examination of your complaint.*

**CONNECT  
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