



**INFORMATION
REGULATOR
(SOUTH AFRICA)**

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

MEDIA STATEMENT

INFORMATION REGULATOR MONITORS THE DEPARTMENT OF HEALTH ON POPIA COMPLIANCE

22 APRIL 2022

The Information Regulator (Regulator) welcomes the lifting of the National State of Disaster that was recently announced by President Cyril Ramaphosa. The Regulator is of the view that the decision by cabinet to lift the National State of Disaster marks the beginning of the return to normalcy for the South African population. The Covid-19 pandemic has also seen the majority of the population having their lives altered by measures put in place to prevent the spread of the virus. The National Institute for Communicable Diseases (NICD) reports that as of 17 April 2022 there have been 3 741 230 Covid-19 Infections and 100 147 Covid-19 related deaths.

Government had to take unprecedented measures to identify prevalence of the virus and containment of the spread of the SARS-Cov-2 virus. This was done through conducting over 24-million Covid-19 tests and deploying tracking methods and tools.

Covid-19 testing, vaccination and track-and-tracing of necessity required collection of vast amounts of personal information. This large-scale possible invasion of privacy and processing of personal information was and is still one of the Regulator's concerns during and after the aforesaid National State of Disaster. This has led to the Regulator issuing a Guidance Note on the processing of personal information in the management and containment of Covid-19 pandemic. In the Guidance Note, the Regulator emphasised the importance of compliance with all eight (8) conditions for lawful processing of personal information.

On 15 September 2020, the Regulator submitted its report to Parliament undertaking that at the end of the National State of Disaster, it will monitor compliance by the National Department of Health (NDoH) with POPIA in general and the Guidance Note in particular. Furthermore, the Regulator undertook to ensure that personal information on the COVID -19 Tracing Database is de-identified, which means the any information that can be used to identify a

person is deleted. By this action, the Regulator wanted to ensure that the de-identified personal information is used strictly for research, study and teaching purposes only. Lastly, the Regulator undertook to monitor processes in place for destroying all personal information on the COVID -19 Tracing Database which had not been de-identified.

In accordance with the above undertakings and the Regulator's mandate in terms of section 89 of POPIA, the Regulator has requested the Department of Health to report to it no later than 29 April 2022, on how the NDoH and/or NICD will comply with applicable conditions for lawful processing of personal information. This includes with reference to section 14 of POPIA which provides that records of personal information must not be retained any longer than necessary for achieving the purpose for which the information was collected or subsequently processed. In particular, the Regulator wants to know measures taken or to be undertaken to ensure compliance with the de-identification requirements, the retention period for personal information collected track-and-trace purposes, the method or manner to be applied in destroying or deleting the records of personal information.

The Regulator also wants to know whether the NICD or the NDoH intends to transfer or has transferred the personal information to a third party who is in a foreign country and the level of protection afforded to the information by the foreign country. Lastly, the Regulator wants the NDoH and NICD to provide details about the nature or category of the special personal information and personal information of children held by or under the control of these institutions.

"The Regulator requires this information from the NDoH and NICD in order to determine if it is necessary or appropriate to conduct compliance assessment on the Department of Health and NICD which we are empowered to do in terms of section 89 of POPIA," explained Adv. Collen Weapon, Member of the Regulator.

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