



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

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MEDIA STATEMENT

THE INFORMATION REGULATOR ISSUES A NEW GUIDANCE NOTE ON POLITICAL PARTIES & INDEPENDENT CANDIDATES

14 MAY 2024

The Information Regulator (Regulator) has launched a guidance note to guide how political parties and independent candidates use the personal information of voters for campaigning purposes in the run-up to the national and provincial elections on 29 May 2024. The new guidance note is an update to the Guidance Note issued by the Regulator in the run-up to the local government elections in 2019.

The new guidance note is based on recent developments in the electoral process following changes in electoral law (allowing for independent candidates to stand and campaign for elections), the increasing instances of security compromise to personal information in various segments of the economy and society and increasing risks to the electoral process due to misinformation and disinformation.

With the new Guidance Note, the Regulator seeks to ensure that both political parties, independent candidates and the public are fully informed and enabled to take the necessary action to protect the personal information of voters during elections, and to minimise the risks to the free flow of accurate information that is crucial for informed participation in the electoral process.

The Guidance Note addresses aspects such as the responsibilities of political parties and independent candidates as responsible parties in terms of the Protection of Personal Information Act No. 4 of 2013 (POPIA). This is done by aligning each of the eight conditions for the lawful processing of personal information to the circumstances of political parties and independent candidates as they campaign for elections. The Guidance Note indicates what would be expected of political parties and independent candidates with regard to the protection of personal information of the voters in accordance with each of the eight conditions for the lawful processing of personal information. For example, the Guidance Note states that if political parties and independent candidates want to use personal information of voters for campaign purposes, they



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must collect such personal information from the voters directly and not from data brokers or lead generators and use it for campaign purposes only. It also prohibits the supply of personal information that has been collected for campaigning purposes to third parties without the consent of a voter.

The Guidance Note also addresses the issue of solicitation of donations by political parties and independent candidates through direct marketing. According to the Guidance Note campaigning for votes does not constitute the promotion of any services and does not fall within the definition of direct marketing in POPIA but the act of requesting for donations by a political party or independent candidate is subject to the regulation of direct marketing in terms of POPIA and therefore, in this respect, political parties and independent candidates have to comply with the provisions of POPIA in relation to direct marketing.

The Guidance Note regards misinformation and disinformation as a violation of the right of access to accurate and reliable information and also violates the right to privacy of a person whose image and/or voice of is used without their consent to spread fake messages through generative artificial intelligence. It therefore requires political parties and independent candidates to play their role in fighting misinformation and disinformation by developing and implementing policies and action plans to mitigate against misinformation and disinformation. The Guidance Note requires political parties and independent candidates to investigate instances of misinformation and disinformation by their campaigns and take disciplinary action against their staff that engage in these practices. It also calls on the Independent Electoral Commission to issue a code of conduct to address misinformation and disinformation in digital in digital platforms to promote free, fair and orderly elections in terms of section 99(2) of the Electoral Act.

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