

# **GUIDANCE NOTE: POPIA IN MEDIA COMPANIES – NEWSROOMS AND OTHER DIVISIONS**

## **Introduction:**

South Africa's Protection of Personal Information Act will become fully enforceable on July 1, 2021.

The purpose of this note is to briefly explain POPIA in a media context.

The Act applies differently to editorial and non-editorial divisions of media companies, and this note sets out how the different divisions are to go about implementing it.

This guidance note only applies to media entities that subscribe to The Code of Ethics and Conduct for South African Print and Online Media (Press Code).

## **What POPIA is about:**

The Protection of Personal Information Act is about protecting personal information. When dealing with Act 4 of 2013, the act itself should always be your primary source. However, summaries and notes like this may come in handy.

## **POPIA and the media:**

Media companies face a unique challenge in that they have editorial departments that gather news – an activity where a lot of personal information is collected. Section 7 of POPIA excludes the collection and processing of personal information for purposes of journalism (if the processor subscribes to

*This document does not constitute legal advice. It is up to you to ensure that you acquire expert advice, and a POPIA policy that meets your company's requirements.*

a code such as the Press Code).

This means that non-editorial divisions of media companies will be governed by POPIA when gathering and processing personal information at all times.

However, when editorial divisions gather and process personal information for the purposes of journalism, they are bound by the Press Code's safeguards for the protection of personal information (clause 4 of the Press Code).

In practice, media companies will have to take great care to avoid scenarios where personal information gathered for editorial purposes is provided to non-editorial divisions where it may be used for different purposes, such as marketing or sales.

### **Who is responsible for implementing POPIA?**

Each media company must have an Information Protection Officer (IPO), who will be responsible for the company's implementation of POPIA and the Promotion of Access to Information Act (PAIA). If no person has been assigned that role, the head of the entity will automatically be the IPO.

Information Protection Officers must register with the Information Regulator as soon as possible. The Information Regulator is the body tasked with monitoring POPIA and PAIA implementation. Do this by filling out the form on page 23 of the document titled *ANNEXURE A*.

Registration can be done via <https://www.justice.gov.za/inforeq/>, or you can e-mail your completed form to [registration.IR@justice.gov.za](mailto:registration.IR@justice.gov.za).

Note that the document titled *ANNEXURE A* contains a summary of information that IPO's should take note of as provided by the Information Regulator.

### **What does an IPO have to do?**

Ensure that your company has a POPIA policy. It is your responsibility to ensure that your company has a proper policy that is tailor-made in accordance with your company's functions, operations and needs.

Not sure where to start? The document titled *ANNEXURE B* contains an example of a POPIA policy draft text. It is attached hereto for your reference and perusal.

Those with whom your company interact must know about your policy, and they must consent to whatever you do with their data - before you do it. An example of draft e-mail disclaimers for editorial and non-editorial outgoing mail has been attached hereto. It is titled *ANNEXURE C*.

### **Discussion on POPIA**

You may access and distribute this video discussion on POPIA. It will assist you in understanding the act in a media space, and go a long way towards explaining it.

POPIA 101 for media companies:

<https://www.youtube.com/watch?v=hCjBQI7kL-U>

POPIA training video for Newsrooms:

[https://www.youtube.com/watch?v=JCnr5ZW4\\_DI](https://www.youtube.com/watch?v=JCnr5ZW4_DI)

### **Notice:**

The Press Council of SA is satisfied that the Press Code is compliant with the provisions of POPIA read with the Constitution of RSA, 1996 and that it contains the required provisions and safeguards to ensure the protection of person information while at the same time enabling it to discharge its mandate and responsibilities effectively as detailed in its Constitution.

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