



**INFORMATION
REGULATOR
(SOUTH AFRICA)**

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



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GUIDANCE NOTE ON PROCESSING OF PERSONAL INFORMATION OF CHILDREN

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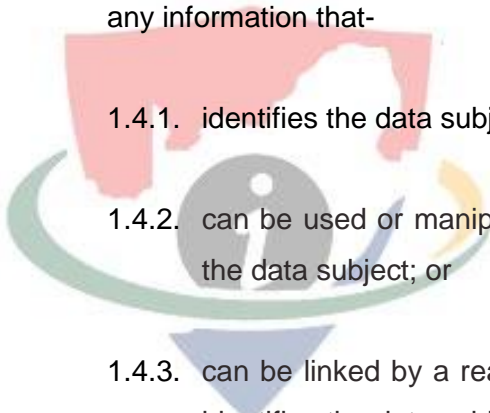


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1. DEFINITION

- 1.1. **“Child”** means a natural person under the age of 18 years who is not legally competent, without the assistance of a competent person, to take any action or decision in respect of any matter concerning him or herself;
- 1.2. **“Competent Person”** means any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child;
- 1.3. **“Consent”** means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information;
- 1.4. **“De-identify”**, in relation to personal information of a data subject, means to delete any information that-
- 1.4.1. identifies the data subject;
 - 1.4.2. can be used or manipulated by a reasonably foreseeable method to identify the data subject; or
 - 1.4.3. can be linked by a reasonably foreseeable method to other information that identifies the data subject.
- 1.5. **“Operator”** means a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of that party;
- 1.6. **“Processing”**, as defined in POPIA, means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including-
- 1.6.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;



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1.6.2 dissemination by means of transmission, distribution or making available in any other form; or

1.6.3 merging, linking, as well as restriction, degradation, erasure or destruction of information;

1.7 “Responsible party” means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information;

2. INTRODUCTION

2.1. A responsible party is, in terms of section 34 of POPIA, and subject to section 35(1) of POPIA, prohibited from processing personal information of children.

2.2. The prohibition on processing of personal information of children, as referred to in paragraph 2.1 above, does not apply if such processing is-

2.2.1. carried out with the prior consent of a competent person;

2.2.2. necessary for the establishment, exercise or defence of a right or obligation in law;

2.2.3. necessary to comply with an obligation of international public law;

2.2.4. for historical, statistical or research purposes to the extent that-

2.2.4.1. the purpose serves a public interest and the processing is necessary for the purpose concerned.

2.2.4.2. it appears to be impossible or would involve a disproportionate effort to ask for consent, and sufficient guarantees are provided for to ensure that the processing does not adversely affect the individual privacy of the child to a disproportionate extent.

2.2.5. of personal information of children which has deliberately been made public by the child with the consent of a competent person.

2.2.5.1. Reference to personal information made public may include, for example, publication of personal information of a child in social media, with the consent of a competent person.

2.3 This document provides guidance only and the responsible parties are therefore required to ensure compliance with the relevant provisions of POPIA. Any examples provided in this Guidance Note are not exhaustive and should be regarded as mere guidance to improve understanding.

3. PURPOSE

The purpose of this Guidance Note is to guide responsible parties who are required to obtain authorisation from the Regulator to process personal information of children, as provided for in section 35(2) of POPIA.

4. AUTHORISATION FOR PROCESSING OF PERSONAL INFORMATION OF CHILDREN

4.1. In terms of Section 35(2) of POPIA, the Regulator may, by notice in the Gazette, authorise a responsible party to process personal information of children if the Regulator is satisfied that the such processing is-

4.1.1. in the public interest; and

4.1.2. appropriate safeguards have been put in place to protect the personal information of the child.

4.2. Public Interest

4.2.1 POPIA does not define what constitute public interest, in relation to the processing of personal information of children.

4.2.2 Public interest is a wide and diverse concept that cannot, and should not, be limited in its scope and application. The definition of what constitutes public interest varies across jurisdictions and should be assessed on a case-by-case basis. In its very basic formulation, public interest is the notion that an action or process or outcome widely and generally benefits the public at large (as opposed to a few or a single entity or person) and should be accepted or pursued in the spirit of equality and justice.

4.3. Appropriate Safeguards

4.3.1. The responsible party is required, in terms of section 19(1) of POPIA, to secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

4.3.1.1. loss of, damage to or unauthorised destruction of personal information; and

4.3.1.2. unlawful access to or processing of personal information.

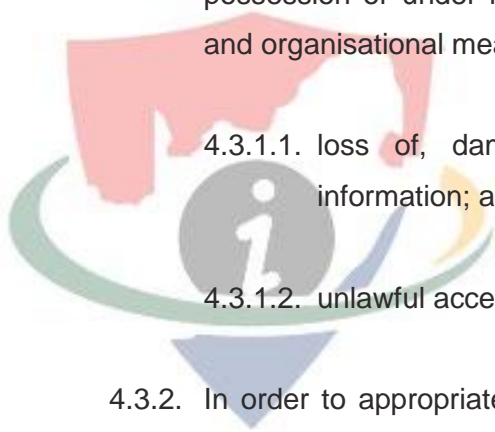
4.3.2. In order to appropriately secure the integrity and confidentiality of personal information of the child in its possession or under its control, the responsible party must take reasonable measures to-

4.3.2.1. identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;

4.3.2.2. establish and maintain appropriate safeguards against the risks identified;

4.3.2.3. regularly verify that the safeguards are effectively implemented; and

4.3.2.4. ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.



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4.3.3. The responsible party must have due regard to generally accepted information security practices and procedures which may apply to it generally or be required in terms of specific industry or professional rules and regulations.

5. CONDITIONS THAT MAY BE IMPOSED BY THE REGULATOR IN RESPECT OF ANY AUTHORISATION GRANTED

5.1 If the Regulator is satisfied that the application for authorisation to process personal information of children meet the requirements listed in paragraph 4.1 above, it may impose reasonable conditions in respect of any authorisation granted, which conditions will be decided on a case-by-case basis.

5.2 The conditions may include-

5.2.1 how a responsible party must-

5.2.1.1 upon request of a competent person, provide a reasonable means for that person to-

5.2.1.1.1 review the processing of the personal information of children; and

5.2.1.1.2 refuse to permit its further processing of personal information of the child;

5.2.1.2 provide notice-

5.2.1.2.1 regarding the nature of the personal information of children that is processed;

5.2.1.2.2 how such information is processed; and

5.2.1.2.3 regarding any further processing practices.

5.2.1.3 refrain from any action that is intended to encourage or persuade a child to disclose more personal information about himself or herself than is reasonably necessary given the purpose for which it is intended; and

5.2.1.4 establish and maintain reasonable procedures to protect the integrity and confidentiality of the personal information collected from children.

6. MANNER OF SUBMISSION OF AN APPLICATION FOR AUTHORISATION TO PROCESS PERSONAL INFORMATION OF CHILDREN

6.1 Applications for authorisation to process personal information of children must be submitted to the Regulator through the following channels-

6.1.1 Email:

authorisation@icpa.gov.za

6.1.2 Postal:

P.O Box 31533
Braamfontein
Johannesburg

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6.1.3 Hand delivery:

JD House
27 Stiemens Street
Braamfontein
Johannesburg
2001

6.2 Due to the current pandemic (Covid-19), the Regulator recommends that applications for authorisation to process personal information of children should be submitted by email to limit the transmission of the virus. However, the Regulator will accept applications in accordance with paragraphs 6.1.2 and 6.1.3 above.

7. ACKNOWLEDGEMENT OF RECEIPT OF THE APPLICATION

7.1 Once the application is received and recorded on the system of the Regulator, the responsible party will receive an acknowledgement email or letter with a reference number for the application.

7.2 If you are providing additional information to your application, please include the application reference number to enable the Regulator to link the additional information to the existing application.

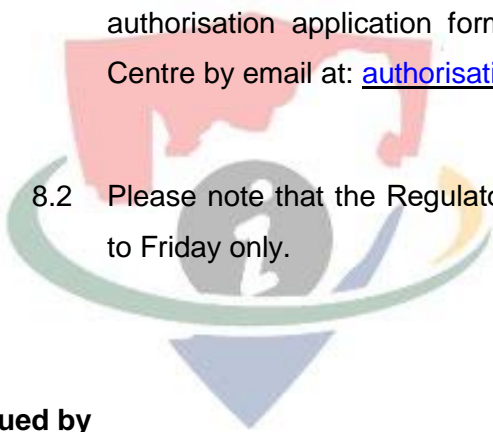
8. CONTACT DETAILS

8.1 If after reading this Guide, the responsible party still requires help in completing the authorisation application form, it may contact the Regulator's Customer Service Centre by email at: authorisationIR.PIC@justice.gov.za.

8.2 Please note that the Regulator's operating hours are from 08h30 to 17h00 Monday to Friday only.

Issued by

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APPLICATION FORM FOR AUTHORISATION TO PROCESS PERSONAL INFORMATION OF CHILDREN

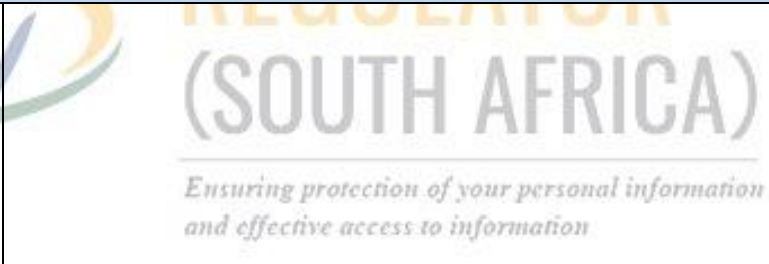
NOTE: The personal information submitted herein shall be solely used for specific purposes of authorisation applications submitted to the Information Regulator (“Regulator”) in terms of section 35(2) of the Protection of Personal Information Act 04 of 2013 (POPIA).

All the information submitted herein shall be used for the purpose stated above, as mandated by POPIA. This Information may be disclosed to the public. The Regulator undertakes to secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent loss of, damage to or unauthorised destruction of personal information and unlawful access to or processing of personal information of children.

PART A			
RESPONSIBLE PARTY			
Type of Body	Public Body		Private Body
Full Name of the Body (Registered Name)	<i>Ensuring protection of your personal information and effective access to information</i>		
Trading Name (if any)			
Registration No, if any			
Full Name of Information Officer			
Information Officer's Registration Number, if registered			
Postal Address (Official)			

Physical Address (Official)	
Official Landline Number	
Official Cell Number	
Official Fax Number	
Official Email Address	
Website, if any	

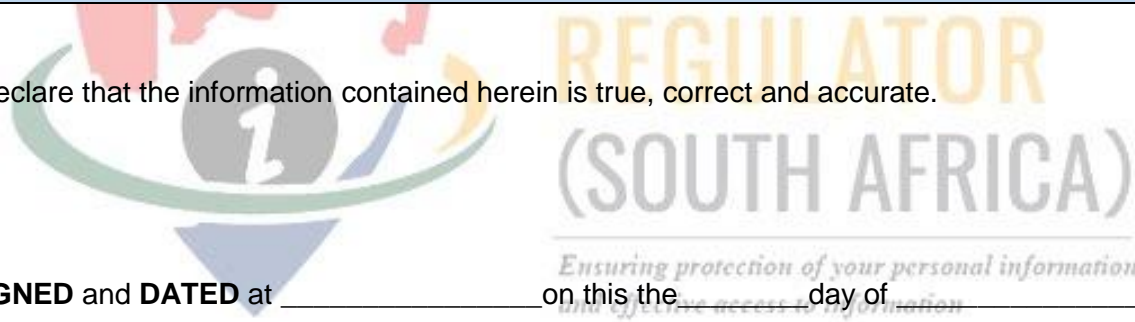
PART B PROCESSING OF PERSONAL INFORMATION OF CHILDREN	
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<p>Please specify description of the categories of personal information of children or categories of information relating thereto, which the responsible party intends to process.</p>	
<p>Please explain how the processing of the specified personal information of children is in the public interest.</p>	
<p>Is the processing of the personal information of children in compliance with the eight conditions for lawful processing of personal information?</p> <p>If no, please confirm if an exemption, in terms of section 37 of POPIA, has been granted by the Regulator.</p>	

<p>Please indicate if the responsible party in the Republic intends to transfer personal information of children to a third party who is in a foreign country?</p> <p>If so, please specify the name of the foreign country.</p>	
<p>Please specify the appropriate security measures to be implemented by the responsible party to ensure appropriate protection of the personal information of the children.</p>	

**PART C
DECLARATION**

I declare that the information contained herein is true, correct and accurate.



SIGNED and **DATED** at _____ on this the _____ day of _____ **2021**

INFORMATION OFFICER

PART D

The following information is required for statistical purposes. Please select a sector(s) that apply to your body.

GOVERNMENT			PUBLIC ENTITIES			PRIVATE BODY			PROFESSION		
Item	Classification of Government	X	Item	Classification of a Public Entity	X	Item	Name of Industry or Sector	X	Item	Type of profession	X
	National Government		1.	Constitutional Entities		1	Education		1	Legal	
	Provincial Government		2.	Schedule 2 Public Entity		2	Insurance		2	Built Environment	
	Local Government		3.	Schedule 3A Public Entity		3	Health Facilities		3	Financial	
LEGISLATURE			4.	Schedule 3B Public Entity		4	Telecommunications		4	Medical and Allied Health Services	
Parliament of the Republic of South Africa			5.	Schedule 3C Public Entity		5	Pharmaceuticals		OTHERS, Specify		
			OTHERS, specify			6	Media And Social Media				
Gauteng Provincial Legislature			6.			7	Retail/Direct Marketing				
Western Cape Provincial Legislature						8	Tourism				

Northern Cape Provincial Legislature			9	Transportation, Storage and Logistics			
Limpopo Provincial Legislature			10	Manufacturing/Production			
Northwest Provincial Legislature			11	Banks			
Free State Provincial Legislature			12	International Organizations			
Mpumalanga Provincial Legislature			13	Real Estate			
			14	Credit Bureaus			
			15	Social Media			
Eastern Cape Provincial Legislature			OTHERS, specify				
Kwazulu-Natal Provincial Legislature				<i>and effective access to information</i>			



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