

Personal information

Your details

First name(s):

Date of birth:



POPI

COMPLIANT

STOP
CHILD
ABUSE

children
matter!



PoPI Act





SAOU LEGAL SERVICES

PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013

POPI



POPI



- ❑ The POPI Act regulates how organisations handle personal information, whether it's for individuals or other businesses. This includes how the information is stored, processed and shared;
- ❑ It is not a consent driven law;
- ❑ The default position is that you do not need to get someone's consent to process their personal information;
- ❑ But there are some instances when you do need to get the data subject's consent.



CONSENT



- ❑ For example, you need consent before you send direct electronic marketing to a prospect; or
- ❑ if you are processing the personal information of a child and POPI does not authorise you in another way to process their personal information.

POPI



CONSENT

- ❑ What are the legal requirements for this consent?

- ❑ [Disclosure and signature.](#)

- ❑ POPI defines consent to be

“any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information”.



CONSENT

YES OR KNOW ???



- ☐ A person must have a choice whether to consent or not (it must be voluntary)
- ☐ There must be an expression of will. For example, tick a tick box, or click on a link.
- ☐ It must relate to a specific purpose and you must specify your purpose.
- ☐ You must notify the data subject of various things as set out in section 18 of POPI.
- ☐ You must inform the person sufficiently to enable them to make a decision.



PERSONAL INFORMATION



- Any information that may reasonably be used to identify a particular individual.
- Such as ID numbers, email addresses, phone numbers and addresses, ages and dates of birth, medical records, criminal records, financial information and employment history.
- Photos or video recordings that show individuals, whether in business or social settings, also constitute personal information.



PERSONAL INFORMATION



- Information that's about individuals but that can't be used to identify them doesn't qualify as personal information.
- Examples are anonymous survey results and demographic statistics.

A close-up photograph of a form titled 'Personal information' in a green header. Below the title, the section is labeled 'Your details'. The form includes fields for 'First name(s):', 'Date of birth:', and 'Address:'. An orange pen with a blue tip is resting on the form, pointing towards the 'Date of birth:' field. The form has a grid-like structure for data entry.

WHO MUST
COMPLY?

COMPLIANCE

- ❖ Any organisation that obtains, processes, stores or shares personal information is required to comply with the POPI Act.
- ❖ For example, if your [school](#) keeps information about employees, parents and learners, it has to comply.

POPI



COMPLIANCE

In line with international privacy legislation, the POPI Act requires that organisations:

- ❖ obtain unambiguous consent from individuals before obtaining, storing, processing or sharing their personal information
- ❖ collect only personal information that they need for legitimate business purposes
- ❖ use personal information only for the purpose for which it was originally collected



COMPLIANCE

- ❖ keep personal information only for as long as it's legitimately required
- ❖ take reasonable measures to protect the security of individuals' personal information
- ❖ provide access to and update or correct individuals' personal information if requested to do so.
- ❖ If personal information is to be shared with others, these parties must have the same level of security for the protection of this information.



CONDITIONS



8 Conditions for the lawful processing of data Section 8 to 25

- Accountability (Sec 8)
- Processing Limitation (Sec 9 - 12)
- Purpose specification (Sec 13 - 14)
- Further processing limitation (Sec 15)
- Information quality (Sec 16)
- Openness (Sec 17 - 18)
- Security safeguards (Sec 19 - 22)
- Data subject participation (Sec 23 - 25)



SECTION 11



- (1) Personal information may only be processed if—
- (a) the data subject or a competent person where the data subject is a child consents to the processing;
 - (b) processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party;
 - (c) processing complies with an obligation imposed by law on the responsible party;
 - (d) processing protects a legitimate interest of the data subject;
 - (e) processing is necessary for the proper performance of a public law duty by a public body; **or**

SECTION 11

(f) processing is necessary for pursuing the legitimate interests of the responsible party or of a third party to whom the information is supplied.

Note: A Data subject can **withdraw** consent; or **Object** to the use of their personal information. (on reasonable grounds relating to his, her or its particular situation, unless legislation provides for such processing.)



SECTION 69

Also:

A data subject may [object](#), at any time, to the processing of personal information for purposes of direct marketing other than direct marketing by means of unsolicited electronic communications as referred to in section 69.

[Section 69: Save route is to get consent and give them the opportunity to opting out.](#)

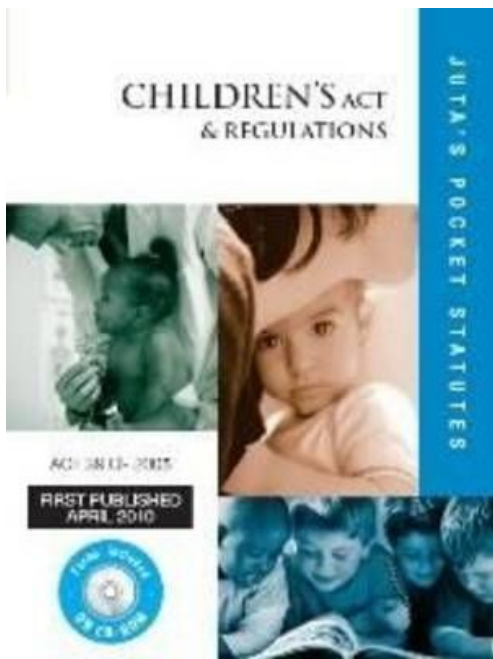


REGULATIONS



The latest regulations that have been published:

- The Protection of Personal Information Act: Regulations: Information register (English / Afrikaans), [GG 42110, RG 10897, GoN 1383](#), 14 Dec 2018
- This regulation deals with various matters such as logistics and administrative measures as the prescribed by the act. Also included are the forms for the various actions role-players can take.
- Such as a form whereby a data subject can object to the use of his/her personal information, or to request amendments or deletions to personal information on a database.



CHILDREN'S ACT

38

OF 2005



ABUSE



In relation to a child, means any form of harm or ill-treatment deliberately inflicted on a child, and includes –

- a. Assaulting a child or inflicting any other form of deliberate injury to a child;
- b. Sexually abusing a child or allowing a child to be sexually avbused
- c. Bullying by another child;
- d. A labour practise that exploits a child; or
- e. Exposing or subjecting a child to behaviour that may harm the child psychologically or emotionally.



PROCEDURES FOR REPORTING ABUSE

- Educators are in contact with children on a daily basis -bound to be confronted with a child abuse case at some point.
- Dealing with this abuse in the correct manner could make the difference between the perpetrator being convicted or acquitted.
- In addition, a child who has just disclosed is vulnerable and requires special care.



PROCEDURES FOR REPORTING ABUSE

- Sometimes children make disclosures of abuse to educators.
- Sometimes educators observe the behaviour and well-being of children and may suspect that the child is being abused.
- All schools should have child protection policies and educators do need to familiarize themselves with these.
- It is important to remember that no matter what the policy of the school, or what another educator may tell you, educators have a statutory responsibility to report child abuse and the failure to do so is a crime.



STEP 1

- ☐ Child's name, address and telephone number.
- ☐ Parent's or guardian's name and telephone numbers.
- ☐ Reasons for concern, any documentation of indicators and any relevant statements made by the child.



STEP 2

- ❖ Follow the school protocol (NB Indemnity form) and inform the designated personnel at the school. However the reporting of abuse and neglect is mandated by law and this law supersedes school policy.
- ❖ No investigation should be carried out by the school personnel at this stage or any other time.



STEP 3



- The designated personnel should contact a [Social Worker](#) from a Child protection organization such as a Child Welfare Society or the Department of Social Development, or the Child Protection Officer of the [South African Police Services](#).

The following should be [noted](#):

NB!!

NB!!

- the name of the person making the call;
- the name of the intake worker receiving the call;
- the date and time of the call; and
- the action proposed by the person to whom the abuse has been reported.

NB!!

NB!!





STEP 4

- ✓ The social worker (and the police in some cases) will interview the child as soon as possible.





STEP 5



- A Social Worker and/or the Police will interview the alleged abuser and sometimes family members as well.
- A decision concerning the child's safety will be made by the Social Worker at this time.
- If response up is slow and particularly if the child remains at risk, the referring person should follow up until the child is safe.



POLICE



STEP 6



- At the end of the investigation the school personnel, the family or the parents and the Social Worker should meet to discuss the steps the school could take to assist the child.





ABUSE



- Any person who works with children in an official or medical capacity including doctors, dentists, teachers or occupational therapists has a mandatory obligation to come forward if they know or suspect that there has been physical abuse.
- Neighbours or friends are not required by law to report physical abuse, but are encouraged to do so.
- In the case of sexual abuse, however, anybody who suspects it is taking place has a mandatory obligation to report it.



PHOTOGRAPHY LAW IN SA



- ❑ The laws surrounding photography in our country are vague - we have to have a look at trespassing, fair use, copyright and privacy laws, and interpret them.
- ❑ In South Africa, any person may photograph any other person, without their permission, in public spaces. These people may or may not be the sole focus of your photograph.
- ❑ The only specific restriction placed on what may not be photographed by government is related to anything classified as national security. This could be military installations or infrastructure such as police stations, airports, bridges, consulates or border crossings.

PRIVACY LAW

- Privacy laws permit a photographer to take pictures in [any public space](#). This includes anything which can be seen from a public area.
- They have broken no laws by photographing you, they don't have to explain themselves, they don't have to show you the photograph and they don't have to identify themselves.
- That photo belongs to them now, and it is their personal property.
- You, as the subject, may not threaten them or physically restrain them. That's against the law. By appearing in public areas, or within the range of a zoom lens in public areas, you essentially [waiver](#) your right to anonymity or privacy.



PRIVACY LAW

- As a member of the public, you only have rights when you have secluded yourself to a place where [privacy is deemed a reasonable assumption](#). Such as bathrooms, changing rooms, medical facilities or inside your home, hiding in your wardrobe.
- Privacy is considered personal and individual. If you express a wish for privacy, the act of stating that wish affords protection. Once you [voice](#) that desire, they have to [comply](#).



..... and at school?

The law allows you to photograph children but you have to stop immediately when confronted with any objection.

Even in public schools, parents expected that their children's privacy is secure.

Schools are advised to obtain the consent of parents before publishing or posting any photographs of learners.

Can a parent object to the use of CCTV-cameras in a school?

And a teacher?

It is all about a policy

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