



**Briefing in preparation of Workshop on Protection of Personal Information Bill on 22 May 2013**

**1. Introduction**

The Protection of Personal Information Bill will be considered by the members of the Select Committee for Security and Constitutional Development with the purpose of gaining clarity on aspects of the purpose, objects and operation of the Bill. The Bill is a complex piece of legislation in that it is highly technical categories and has implications for a number of actors across the spectrum.

The Bill gives effect to section 14 of the Constitution which protects the right to privacy. In this respect the protection of personal information is subject to international instruments and the state has an obligation to put in place provisions in the domestic law. The Bill provides this opportunity to comply with the agreements and protocols South Africa ratified such as the The workshop will consider the technical provisions of the Bill and in particular attempt to unpack the following definitions and processes:

**2. Aims of the Bill**

1. To promote the protection of personal information processed by public and private bodies
2. To introduce information protection principles so as to establish minimum
3. Requirements for the processing of personal information;
4. To provide for the establishment of an Information Protection Regulator;
5. To provide for the issuing of codes of conduct;
6. To provide for the rights of persons regarding unsolicited
7. Electronic communications and automated decision making;
8. To regulate the flow of personal information across the borders of the Republic;

**Workshop Programme:**

TIME	ITEM
09:45 -	Tea
10:00 – 10:15	Introduction by facilitator Mr I Kinnes
10:15 – 10:45	Presentation by Council for Medical Schemes (CMS) on POPI Bill
10:45 – 11:00	Department Justice and Constitutional Development (DOJ) reply to CMS presentation
11:00 – 13:00	DOJ workshop of POPI Bill
13:00 – 14:00	Interaction by members

### 3. Key Areas in Definitions

No.	Concept	Issues
1.	Data subject	means the person to whom personal information relates
2.	De-identify	means to delete any information that— (a) identifies the data subject; (b) can be used or manipulated by a reasonably foreseeable method to identify the data subject; or (c) can be linked by a reasonably foreseeable method to other information that identifies the data subject;
3.	Information matching programme	means the comparison, whether manually or by means of any electronic or other device, of any document that contains personal information about 10 or more data subjects with one or more documents that contain personal information of 10 or more data subjects, for the purpose of producing or verifying information that may be used for the purpose of taking any action in regard to an identifiable data subject;
4.	Information protection officer	a— (a) public body means an information officer or deputy information officer as contemplated in terms of section 1 or 17 of the Promotion of Access to Information Act; or (b) private body means the head of a private body as contemplated in section 1 of the Promotion of Access to Information Act
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
6.	Personal information	means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to— (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person; (b) information relating to the education or the medical, financial, criminal or employment history of the person; (c) any identifying number, symbol, e-mail address, physical address, telephone number or other particular assignment to the person; (d) the blood type or any other biometric information of the person; (e) the personal opinions, views or preferences of the

		<p>person;</p> <p>correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;</p> <p>(g) the views or opinions of another individual about the person; and</p> <p>(h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;</p>
7.	Prescribed	means prescribed by regulation or by a code of conduct
8.	Processing	<p>means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—</p> <p>(a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;</p> <p>(b) dissemination by means of transmission, distribution or making available in any other form; or</p> <p>(c) merging, linking, as well as blocking, degradation, erasure or destruction of information;</p>
9.	Record	<p>means a record that is accessible in the public domain and which is in the possession of or under the control of a public body, whether or not it was created by that public body;</p>
	Public Record	<p>means any recorded information—</p> <p>(a) regardless of form or medium, including any of the following:</p> <p>(i) Writing on any material;</p> <p>(ii) information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored;</p> <p>(iii) label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;</p> <p>(iv) book, map, plan, graph or drawing;</p> <p>(v) photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;</p> <p>(b) in the possession or under the control of a responsible party;</p> <p>(c) whether or not it was created by a responsible party; and</p> <p>(d) regardless of when it came into existence</p>
10.	Regulator	means the Information Protection Regulator established in terms of section 35

11.	Re-identify	in relation to personal information of a data subject, means to resurrect any information that has been de-identified, that— (a) identifies the data subject; (b) can be used or manipulated by a reasonably foreseeable method to identify the data subject; or (c) can be linked by a reasonably foreseeable method to other information that identifies the data subject
12.	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
13.	Subscriber	means any person who is party to a contract with the provider of publicly available electronic communications services for the supply of such services
14.	Exemptions	exemptions with respect to processes

#### 4. Processes

As per legislation:

Information Regulator, appointment, powers and functions etc.

#### 5. Submissions

- FSB
- National Treasury
- CMS

#### 6. Conclusion

#### Notes

- Members to familiarise themselves with the provisions of the Bill
- Members to familiarise themselves with the presentation by the Department and the submissions from interested parties