READINESS PLAN FOR THE IMPLEMENTATION OF THE

PROTECTION OF PERSONAL INFORMATION ACT 4 of 2013(POPIA)

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# BACKGROUND

The Information Regulator (Regulator) is established in terms of Section 39 of the Protection of Personal Information Act 4 of 2013 (POPIA). Which provides that “*there is hereby established a Juristic person to be known as the Information Regulator, which-*

* 1. *has the jurisdiction throughout the Republic;*
  2. *is independent and subject to the Constitution and the law and must be impartial and perform its functions and exercise its powers without fear; favour or prejudice;*
  3. *must exercise its powers and perform its functions in accordance with this Act and the Promotion of Access to Information Act; and*
  4. *is accountable to the National Assembly.”*

# OBJECTIVE OF POPIA

The purpose of POPIA in terms of sections 2 (a) (i) and (ii), (b), (c) and (d) is to –

1. give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party, subject to justifiable limitations that are aimed at –
   * 1. balancing the right to privacy against other rights, particularly the right of access to information; and
     2. protecting important interests, including the free flow of information within the Republic and across international borders;
2. regulate the manner in which personal information may be processed, by establishing conditions, in harmony with international standards, that prescribe the minimum threshold requirements for the lawful processing of personal information;
3. provide persons with rights and remedies to protect the personal information from processing that is not in accordance with this Act; and
4. Establish voluntary and compulsory measures, including the establishment of an Information Regulator, to ensure respect for and to promote, enforce and fulfil the rights protected by this Act.

# SECTIONS OF POPIA THAT ARE CURRENTLY OPERATIONAL

* 1. On 19 November 2013 the President proclaimed the following sections of POPIA to come into effect-
     + - Section 1;
       - Sections 39 to 54; and
       - Sections 112 and 113.
  2. On 17 June 2020 the President signed a Proclamation in terms of which the following sections of POPIA will come into effect on 1 July 2020:
* 2 to 38;
* 55 to 109;
* 111; and
* 114(1),(2) and (3)
* Sections 110 and section 114(4) will come into effect on 30 June 2021.

# PURPOSE AND OBJECTIVE OF THE READINESS PLAN

* + 1. The purpose of this Operational Readiness Plan (ORP) is to identify performance tasks and creating deliverables throughout the implementation period, to ensure the operating environment is prepared to effectively promote and protect the right to privacy as well as the right of access to information. The ORP will assist the Regulator to determine the readiness state of the organization and defines how close this environment is to the desired readiness state.
    2. The objective of the ORP is to critically look at the organization's capacity to successfully deliver or to perform its functions under POPIA, as amended, and initiates appropriate actions or measures to bring a current state of readiness to one of confidence in long-term success of the organisation.

# DETAILED ACTIONS TO BE UNDERTAKEN PER EACH PROVISION OF POPIA

Below table indicate provisions of POPIA that requires critical actions necessary for the successful functioning of the Information Regulator and enforcement of the Constitutional right of protection of personal information.

| **PROVISION OF POPIA**  (Section that requires critical Action for the implementation of POPIA) | **ACTION UNDERTAKEN/TO BE UNDERTAKEN**  (The action required by the provision) | **CURRENT STATUS**  (The current status of the action) | **TIME**  **FRAME**  (Projected timeframe for completion of the Action) | **RESOURCES REQUIRED**  (What are Resources required to complete the Action) | **AMOUNT REQUIRED**  (Specify the amount required to execute the action) | **RESPONSI-BLE**  (Who is responsible for the Action) | **ACCOUNT-ABLE**  (Who is accountable for the Action) | **CONSUL-TED**  **(**Who should be Consulted regarding the Action) | **INFORMED**  (Who should be informed about the Action) |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1. Definitions and Purpose** | None | None | None | None | Nil | None | None | None | None |
| **2. Purpose of Act** | None | None | None | None | Nil | None | None | None | None |
| **3. Interpretation and application of Act** | None | None | None | None | Nil | None | None | None | None |
| **4. Lawful processing of personal information** | None | None | None | None | Nil | None | None | None | None |
| **5. Rights of data subjects** | None | None | None | None | Nil | None | None | None | None |
| 1. **Exclusions**   **Section 6** | (a) Analysis of relevant legislation referred to in Section 6(1)( c) (i) and (ii) to establish whether it contains adequate safeguards and propose amendment of such legislation, where necessary.  (b) Development of a guide for what constitutes national security | None | 31 March 2021 | Exec Legal, Policy, Research and Information Technology Analysis (LPRITA) and Exec: POPIA | Nil | CEO and Exec: POPIA and LPRITA | Members | None | Parliament |
| **7(2) Exclusion for journalistic, literary or artistic purposes** | Analysis of the Press Code to determine whether it provides adequate safeguards for the protection of personal information | Press Council has already submitted its draft Code of Conduct to the Regulator for analysis. The analysis will be done after the adoption of the Guidelines for the Development of Codes of Conduct referred to below | 31 March 2021 | Existing Executive: POPIA and Exec: LPRITA | Position already funded from 2019/20 Financial Year (FY) | CEO and Executive: POPIA | Members | None | Parliament |
| **8. Responsible party to ensure conditions for lawful processing** | Development of an Internal Guide for interpreting the Eight (8) Conditions for Lawful Processing of Information. | None | 31 March 2021 | Existing Executive: POPIA | Position already funded from 2019/20 FY | CEO and Executive: POPIA | Members | None | None |
| **9. Lawfulness of processing** | None | None | None | None | Nil | None | None | None | None |
| **10. Minimality** | None | None | None | None | Nil | None | None | None | None |
| **11. Consent, justification and objection** | Development of a Consent form  Development of an Objection Form | Form 1 of POPIA Regulations | None | Existing Executive: POPIA | Position already funded from 2019/20 FY | CEO and Executive: POPIA | Members | None | Parliament |
| **12. Collection directly from data subject** | Development of a guide for the interpretation of “ national security” in terms of section 12(2)(d)(iv) and in relation to other provisions in the Act. | Not yet developed | 31 March 2021 | Existing Executive: LPRITA | Position already funded from 2019/20 FY | Exec: LPRITA | Members | None | None |
| **13. Collection for specific purpose** | None | None | None | None | Nil | None | None | None | None |
| **14. Retention and restriction of records** | None | None | None | None | Nil | None | None | None | None |
| **15. Further processing to be compatible with purpose of collection** | None | None | None | None | Nil | None | None | None | None |
| **16. Quality of information** | None | None | None | None | Nil | None | None | None | None |
| **17. Documentation** | None | None | None | None | Nil | None | None | None | None |
| **18. Notification to data subject when collecting personal information** | None | None | None | None | Nil | None | None | None | None |
| **19. Security measures on integrity and confidentiality of personal information** | None | None | None | None | Nil | None | None | None | None |
| **20. Information processed by operator or person acting under authority** | None | None | None | None | Nil | None | None | None | None |
| **21. Security measures regarding information processed by operator** | None | None | None | None | Nil | None- | None | None | None |
| **22. Notification of security compromises** | (a) Provide guidance on the manner in which data subjects must be notified of unauthorised access or acquisition of their personal information as provided for in section 22(4)(e)  (b) Provide guidance on the manner in which the responsible party must publicise the fact of any compromise to the integrity or confidentiality of personal information if such compromise would protect a data subject who may be affected by the compromise as provided for in section 22(6) | None | 31 March 2021 | Exec: LPRITA | Position already funded from 2019/20 FY | CEO and Executive: POPIA | Members | Members of the Public | Parliament |
| **23.(1)(b) (ii)Access to personal information** | Write to Minister to prescribe a fee | None | 31 March 2021 | Existing Executive: POPIA | Position already funded from 2019/20 FY | Chairperson | Members | Public and  DOJ&CD | Parliament |
| Write a letter to the Minister of Justice and Correctional Services (Minister) requesting him or her to prescribe Fees in terms of section 111(1)(a) of POPIA. | None | 31 March 2021 | Existing Executive: POPIA | Position already funded from 2019/20 FY | CEO and Executive: POPIA | Members | Members of the Public | Parliament |
| **24. Correction of personal information** | Form – Request for correction or deletion or destroying or deletion of record | Form 2 developed as part of the POPIA Regulations. | None | None | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **25. Manner of access** | None | None | None | None | Nil | None | None | None | None |
| **26. Prohibition of processing of special personal information** | None | None | None | None | Nil | None | None | None | None |
| **27(2). General authorisation concerning special personal information** | (a) Development of an application form to authorise a responsible party to process special personal information  (b) Development of notice to be published in the Gazette;  (c) Development of criteria for what constitutes public interest and appropriate safeguards as provided for in section 27(2). | None | 31 March 2021 | Exec: LPRITA | Position already funded from 2019/20 FY | CEO and Executive: POPIA and Exec: LPRITA | Members | Members of the Public | Parliament |
| **28. Authorisation concerning data subject’s religious or philosophical beliefs** | None | None | None | None | Nil | None | None | None | None |
| **29. Authorisation concerning data subject’s race or ethnic origin** | Compilation of list of laws and measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination | None | 31 March 2021 | Exec: LPRITA | Nil | CEO and Executive: POPIA and Exec: LPRITA | Members | None | Parliament |
| **30. Authorisation concerning data subject’s trade union membership** | None | None | None | None | Nil | None | None | None | None |
| **31. Authorisation concerning data subject’s political persuasion** | Guidance note on the processing of personal information of a voter by a political party for campaigning purposes was issued in 2019 | Guidance note developed | None | None | Nil | None | Members | None | None |
| **32(2). Authorisation concerning data subject’s health or sex life** | Consult with stakeholders referred to in Section 32(1)(b) and (f) and Section 32(6) to determine regulations i.t.o 32(6) and 112(2) | None | 31 March  2021 | Existing Executive: POPIA | Position already funded from 2019/20 Financial Year | CEO and Executive: POPIA | Members | Members of the Public | Parliament |
| **33. Authorisation concerning data subject’s criminal behaviour or biometric information** | Analysis of how information is processed relating to personnel who are in the service of a responsible party in accordance with rules established that comply with labour legislation as provided for in section 33 (2). | None | 31 March 2021 | Executive POPIA | Nil | CEO and Executive: POPIA | Members | None | None |
| **34. Prohibition on processing personal information of children** | None | None | None | None | Nil | None | None | None | None |
| **35(1)(a). General authorisation concerning personal information of children** | None | None | 31 March 2021 | Existing Executive: POPIA | Position already funded from 2019/20 Financial Year | CEO and Executive: POPIA | Members | None | Parliament |
| **35(2). General authorisation concerning personal information of children** | (a) Development of the application form and notice in the Gazette  (b) Development of a Guidance note  on what constitutes public interest and appropriate safeguards | None | 31 March 2021 | Existing Executive: POPIA and Exec : LPRITA | Position already funded from 2019/20 FY | CEO and Executive: POPIA and Exec: LPRITA | Members | Members of the Public | Parliament |
| **35(3). General authorisation concerning personal information of children** | Development of criteria for the determination of “ reasonable conditions” and “conditions” | None | 31 March 2021 | Existing Executive: POPIA and Exec: LPRITA | Position already funded from 2019/20 FY | CEO and Executive: POPIA and Exec: LPRITA | Members | None | Parliament |
| **36. General** | None | None | None | None | Nil | None | None | None | None |
| **Section 37**  **Regulator may exempt processing of personal information** | (a) The development of the exemption notice to be published in the Gazette  (b)The development of a criteria to determine when public interest or clear benefit to the data subject or third party will trump the privacy of a data subject or third party. The criteria will ensure the application of a consistent standard for granting of exemptions | None | 31 March 2021 | Existing Executive: POPIA and Executive : LPRITA | Nil | CEO and Executive: POPIA and Executive : LPRITA | Members | Members of the Public | Parliament |
| **38. Exemption in respect of certain functions** | None | None | None | None | Nil | None | None | None | None |
| **Sections 39(b)**  **Establishment of the Regulator** | Development of key HR and Finance Policies  Separate the Administration of the Regulator from that of the DOJ&CD | Separation Plan for Finance and Human Resource Divisions developed  List of key HR and Finance and HR Policies developed | 31 March 2021 | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Refer to Section 47 | CEO and CFO and Executive: Corporate Services (CS) | Members | National Treasury | Parliament |
| **Sections 39(b)**  **Establishment of the Regulator** | Request permission from the National Treasury to use transversal systems such as Basic Accounting System (BAS), Logistical Information System (LOGIS) and Personnel Salary System (PERSAL) | Letter of request already sent to the National Treasury by the Regulator and awaiting a response | 31 December 2020 | Accessibility to the existing transversal systems and pay license fees as determined by National Treasury | License fees payable will be determined by the National Treasury | CEO and CFO | Members | National Treasury | Parliament and DOJ &CD |
| **Section 40(1)(a)**  **Powers and duties of the Regulator** | Develop and conduct educational programmes to promote understanding on lawful processing of personal information,  issue public statements on matters affecting the protection of personal information of a data subject | Training manual developed by the SAHRC  Regulator issues statements on matters affecting protection of personal information | 31 March 2022 | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Refer to Section 47 | CEO and Executive: Education and Communica-tion (E&C) | Members | None | Parliament |
| Development of a Communication and Branding Strategy ,Enhance the Public awareness Strategy and Plan and Stakeholders Strategy and Plan | Specification for the Bid approved by the Bid Adjudicating Committee but not yet advertised due to moratorium placed by the National Treasury | 31 March 2021 | Appointment of the Service provider | R1.8 Million (Budgeted in the current FY) | CEO and CFO and Executive: Education and Communication (E&C) | Members | DOJ&CD | Parliament |
| **Section 40(1)(b)(i)**  **Powers and duties of the Regulator** | Establish a Unit to monitor and enforce compliance by public and private bodies of compliance of the Act. | Organisational Structure in place | 1 April 2020 – 31 March 2024 | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Refer to Section 47 of POPIA | CEO and Executive: POPIA | Members | Parliament and Minister of Finance | Parliament |
| **Section 40(1)(b)(ii)**  **Powers and duties of the Regulator** | Develop a Research Strategy and Plan to guide research imperatives relating to developments in information processing and computer technology to ensure protection of personal information | Research strategy and plan is under development | 31 March 2021 | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Refer to Section 47 of POPIA | CEO and Executive: LPRITA | Members | Parliament and Minister of Finance | Parliament |
| **Section 40(1)(b)(iii)**  **Powers and duties of the Regulator** | Examine proposed legislation, subordinate legislation, and make proposals on policies that will impact on the protection of personal information | None | 31 March 2021 | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Budgeted from 2021/22 to 2023/24 FY | CEO and Executive: LPRITA | Members | Parliament and Minister of Finance | Parliament |
| **Section 40(1)(b)(iv)**  **Powers and duties of the Regulator** | Submit reports to Parliament on policy matters relating to the protection of personal information of a data subject to enhance this right through legislative or administrative action | Annual Reports submitted to Parliament | As and when required | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Budgeted from 2021/22 to 2023/24 FY | CEO and Executive: LPRITA | Members | Parliament and Minister of Finance | Parliament |
| **Section 40(1)(b)(v)**  **Powers and duties of the Regulator** | Submit a report to Parliament within 5 months of the end of the financial year on activities of the Regulator | Reports are submitted as part of the annual report. | 30 August 2020 | Existing Executive: LPRITA | Nil | CEO and Executives | Members | None | Parliament |
| **Section 40(1)(b)(vi)**  **Powers and duties of the Regulator** | Conducting assessments on request or on own initiative in relation to compliance with the conditions of lawful processing when processing of personal information.  Form 11 | Form 11 has been developed in terms of Regulation 11 | 31 March 2020 | Existing Exec: POPIA | Nil | CEO and Exec: POPIA | Members | None | Parliament |
| **Section 40(1)(b)(vii)**  **Powers and duties of the Regulator** | Monitor the use of unique identifiers and report to parliament on outcome and recommended action to better protect personal information | None | 31 March 2020 | Existing Exec: POPIA | Nil | CEO and Exec: POPIA | Members | None | Parliament |
| **Section 40(1)(b)(viii)**  **Powers and duties of the Regulator** | Maintenance of registers, publishing and making and providing copies of such registers | None | 31 March 2020 | Existing Exec: POPIA | Nil | CEO and Exec: POPIA | Members | None | Parliament |
| **Section 40(1)(b)(ix)**  **Powers and duties of the Regulator** | Examining of proposed legislation relating to the collection and disclosure of personal information by public and private bodies | None | 31 March 2021 | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Budgeted from 2021/22 to 2023/24 FY | CEO and Executive: LPRITA | Members | Parliament and Minister of Finance | Parliament |
| **Section 40(1)(c)**  **Powers and duties of the Regulator** | (a) Consult with stakeholders relating to protection of personal information.  (b) Participation of the Regulator in National, Regional and International bodies in relation to data protection and promotion of access to information  (c) Mediate matters relating to the protection of personal information. | The Regulator participates in National, Regional and International *as a member and/or* through attendance of conferences | On going | Funding for conferences and seminars | Conference and membership fees budgeted for since 2019/20 FY | CEO | Members | None | Parliament |
| **Section 40(1)(d)**  **Powers and duties of the Regulator** | Establishing Complaints and Investigation Unit to handle complaints | Organisational Structure in place | From 01 April 2021  to  31 March 2024 | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Refer to 47 of POPIA | CEO and Executive: Corporate Services and Executive: POPIA | Members | Treasury | Parliament |
| **Section 40(1)(e)**  **Powers and duties of the Regulator** | (a) Establish of the Legal, Policy, Research and Information Technology Analysis Division to conduct research and report to parliament on international instruments relating to the protection of personal information of a data subject.  (b )Research legislative amendments | Organisational Structure in place | From 01 April 2021  to  31 March 2024 | Refer to the establishment of the Administration of the Regulator in section 47 of POPIA | Refer to 47 of POPIA | CEO and Executive: Corporate Services and Executive: LPRITA | Members | National Treasury | Parliament |
| **Section 40(1)(f) (i)**  **Powers and duties of the Regulator** | (a) Issue a Code of Conduct and publish it in the Gazette |  | 30 June 2021 | Existing Executive: POPIA, Executive: PAIA and Executive: LPRITA | R300.00 (for publishing a Gazette through Government Printing Works) | CEO and Executive: POPIA, Executive: PAIA and Executive: LPRITA | Members | Members of the Public | Parliament |
| **Section 40(1)(f)(ii)**  **Powers and duties of the Regulator** | Develop guidelines to assist bodies to develop codes of conduct or to apply codes of conduct | Guidelines to develop Codes of Conduct have been developed and consulted upon. Public comments are being reviewed | 31 March 2021 | Existing Executive: POPIA, Executive: PAIA and Executive: LPRITA | R300.00 (for publishing a Gazette through Government Printing Works) | CEO and Executive: POPIA, Executive: PAIA and Executive: LPRITA | Members | Members of the Public | Parliament |
| **Section 40(1)(g)**  **Powers and duties of the Regulator** | Develop Guidelines on trans-border information flow | First Draft of Guidelines completed. | 31 August 2020 | Existing Executive: POPIA, Executive: PAIA and Executive: LPRITA | Positions already funded in the 2019/20 Financial Year | CEO and Executive: POPIA and Executive: PAIA | Members | None | Parliament |
| **Section 40(1)(h)**  **Powers and duties of the Regulator** | None | None | None | None | None | None | None | None | None |
| **Section 40(2)**  **Powers and duties of the Regulator** | Publish reports on the Regulators functions or matters investigated that would be in the public interest | None | 30 June 2021 | Existing Executive: LPRITA | Position already funded in the 2019/20 FY | CEO and Executive: LPRITA | Members | None | Parliament |
| **Section 40(3)**  **Powers and duties of the Regulator** | (a) Develop a Subpoena Template  (b) Develop witness fees for any person who has been summoned to attend as a witness or who has given evidence | None | 30 June 2021 | Existing Executive: POPIA | Position already funded in the 2019/20 Financial Year | CEO and Executive: POPIA | Members | None | Parliament |
| **Section 40(4)**  **Powers and duties of the Regulator** | Establishment of PAIA Division | Organisational Structure in place | April 2020/2021 FY to 2023/2024 FY | Existing Executive: PAIA and Senior Manager: Compliance and Monitoring  Identified Twenty three (23) positions in the Organisational Structure | Position already funded in the 2019/20 and 2020/21 FY  Budgeted to be made available between 2021/22 and 2023/2024 FY | CEO and Executive: PAIA and Executive: Corporate Services | Members | Minister of Finance | Parliament |
| **41.**  **Appointment, term of office, removal of Members of the Regulator** | President appoints Members on the recommendation of Parliament. | Five (5) Members were appointed on the 1 December 2016 and one (1) Member resigned on 30 September 2019. The process to fill the vacancy is currently underway | Sept. 2020 | None | Position has been funded since 2016/17 Financial Year | Portfolio Committee on Justice and Correctional Services | Parliament and President |  | Minister of Justice and Correctional Services and Regulator |
| **41(2)(a)** | Appointment of the Chairperson and Members of the Regulator by the President | Chairperson and Members appointed. | None | None | Nil | None | None | None | None |
| **42**  **Vacancies** | Filling the vacancy of part-time Members as a result of the  resignation of the previous incumbent | The process of filling the vacancy currently underway | Unknown | Members of Parliament | Nil | Portfolio Committee | President | National Assembly | None |
| **43(2)(a)**  **Powers, duties and Functions of the Chairpersons other Members** | Designation of individual Members to take responsibility for POPIA and PAIA divisions | Two (2) Members designated for POPIA and PAIA respectively | None | None | Nil | None | None | None | None |
| **44**  **Regulator to have regard to certain matters** | a)Conduct research on the meaning of section 44(2)(b);  b)Compile a list of relevant international treaties ratified by South Africa.; and  c)Compile a list of general international guidelines relevant to the better protection of individual privacy | None | None | None | Nil | Executive Legal, Policy | Members |  | Parliament |
| **45**  **Conflict of interest** | a)Development of Declaration of Interest Policy  b)Development of disclosure of interest form referred to in section 45(2)(a) | Declaration of Interest Policy and Forms developed | Annual Declaration by the Members | None | Nil | None | None | None | None |
| **46**  **Remuneration, allowance, benefits and privileges of Members** | Determination of remuneration, allowances and benefits of Member and privileges of Members. | Minister of Justice and Correctional Services only determined remuneration and allowances, benefits and privileges are still outstanding | Unknown | Unknown | Not yet determined | Minister of Justice and Correctional Services | Minister of Justice and Correctional Services | Minister of Finance | Parliament and Presidency |
| **47 Staff** | Establishment of Administration of the Regulator: Develop an Organisational Structure (Structure) and create a Budget and Programme Structure. | Organisational Structure developed and positions being filled in a phased-in approach, that is: Phase One (1) to Five (5) | From 1 April 2019/20 to 31 March 2023 for only Phases One (1) to Three (3). | Organisational Structure with a total of 378 positions developed and being filled in the following Phases: Phase One (1) with Thirteen posts, Phase Two (2) with Eighteen (18) posts, Phase Three (3) with Ninety (95) positions, Phase Four (4) with Sixty three (63) positions and Phase Five (5) with One hundred and eighty one (189) positions. | Funding is allocated in terms of Section 47 (5) of POPIA | Chairperson, CEO and CFO | Members | Minister of Finance | Parliament |
| **48(d)**  **Powers and duties of Chief Executive Officer** | Development of the Delegation of Authority (DoA) Framework (Delegate (responsibilities from the Members to the CEO in terms of POPIA) | Draft DoA Framework in place | 31 March 2021 | Members | Nil | Members | Members | None | Parliament |
| Development of the Delegation of Authority Framework (Delegate responsibilities from the CEO to other Staff in terms of Section 44 of the Public Finance Management Act 1 of 1999 as amended) | Draft DoA Framework in terms of PFMA being prepared | 31 March 2021 | CEO | Nil | CEO | Members | None | National Treasury |
| **49(1)**  **Committees of the Regulator** | Establishment of Oversight Committees | The following Oversight Committees are in place:   * Policy, Governance and International Cooperation * Corporate Services * Information and Communication Technology * Risk Management * Complaints and Investigations * Compliance and Monitoring * Education and Communica-tion * Legal, Policy, Research and Information Technology Analysis | 31 March 2020 | None | Nil | Members | Members | None | Parliament and Minister |
| Review of the existing of ToR of the Committees | Drafts of the revised ToR for Committees in place | 31 July 2020 | None | Nil | Member | Members | None | Parliament |
| **50(1)(a) Appointment** | Appoint One (1) Member of the Regulator to the Enforcement Committee. | Not yet done | 31 March 2021 | None | Nil | Members | Members | None | Parliament |
| **50(2)(a) and (b)**  **Establishment of Enforcement Committee** | The Regulator has to consult with the Chief Justice and the Minister in order to appoint a Judge to be designated as Chairperson of the Committee  b) Consult the Minister of Justice if an attorney or advocate is appointed. | Not yet done | 31 March 2021 | None | Nil | Chairperson | Members | Chief Justice and the Minister | Parliament |
| Secretarial Services will be required external members for time spend whilst attending to matters of the Regulator  Electronic recording devices to be used during the proceedings | Post of Secretariat for the Regulator has been identified and will only be funded in Phase Four (4) from 2023/24 FY  Funds to be made available within the Goods and Service Budget from 2021/22 FY | CEO | Members | Minister of Finance | Parliament |
| **51**  **Meetings of the Regulator** | Development of the Governance Charter | Charter of Roles and Responsibilities for Members developed and being implemented | On going | Secretariat for Regulator’s meeting catering for the Regulator’s Ordinary meetings | Position of the Secretariat will only be funded in 2023/24 FY | CEO to allocate budget from the allocated funds | Members | Minister of Finance | Parliament and DOJ&CD |
| **52(1)(a)**  **Funds** | Appropriation of funds to the Regulator by Parliament  Create a separate allocation independent from any of the Branches of the DOJ& CD although the Budget will still fall under Vote 21: DOJ&CD. National Treasury has to be notified | Funds currently appropriated under Vote 21: DOJ& CD  Regulator already established its Programme Structure from 1 April 2020 which will guide the budget allocation | 31 March 2021 | Existing CEO and CFO to handle the task of creating a separate budget of the Regulator | Nil | CEO and CFO | Members | Minister of Finance | Parliament |
| **52(1)(b)**  **Funds** | Request the Minister of Justice to prescribe fees to be paid by data subjects  Submit a request to the DOJ&CD to investigate and develop prescribed fees in terms of POPIA | Not yet done | 30 Sept. 2021 | Existing Executive: POPIA, Executive: PAIA and Executive: LPRITA to work on the initial draft document | Positions already funded from 2019/20 FY | Minister of Justice | Members | Regulator | Parliament |
| **53. Protection of Regulator** | None | None | none | none | none | none | none | none | None |
| **54. Duty of confidentiality** | Development of the Code of Conduct for the Staff of the Regulator | The Regulator currently uses the Code of Conduct | 31 March 2021 | Existing Executive: CS | Position already funded from 2019/20 FY | CEO and Executive: CS | Members | None | Parliament |
| **Section 55 and 56**  **Information Officers** | Development of a Guidelines for the registration of Information Officers and designation and delegation of Deputy Information Officers | Draft Guideline in place and being finalised by 30 July 2020. | 31 March 2021 | Executive POPIA | Nil | CEO and Executive POPIA | Members | None | Parliament |
| Development of electronic register of information officers  Development of an electronic portal enabling access to the register of Information Officers | Not yet developed | 3 March 2021 | Portal to be developed internally with the assistance of the DOJ & CD’s Information Systems Management Branch | Nil | CEO and Executive: PAIA | Members | DOJ &CD | Parliament |
| **57. Processing subject to prior authorisation** | Pro-forma form to be developed for application for prior authorisation by responsible party. | None | 31 March 2021 | Existing Executive: POPIA | Nil | CEO Executive: POPIA | Members | None | Parliament |
| **58(3). Responsible party to notify Regulator if processing is subject to prior authorisation** | None | None | None | None | Nil | None | None | None | None |
| **59. Failure to notify processing subject to prior authorisation** | None | None | None | None | Nil | None | None | None | None |
| **Sections 60-68 Codes of Conduct** | a) Issuing Codes of Conduct in terms of Section 61 (2).  (b) Publication of notice in government gazette  (c) Design a process chart detailing the process from receipt of application to finalisation where the decision to issue a code or not , including time frames for decision making and reasons for decision taken are outlined.  (d) Design a notification form  (e) Develop a guideline outlining a procedure to deal with complaints  (f) Publish notice in gazette when a code of conduct is amended or revoked.  (g) Retain copies of the amended or revoked code on website, make available for inspection or purchase or copying by the public.  (h) Develop and maintain a register of approved codes of conduct.  (i) Develop an Electronic Register (portal) of approved Code of Conducts for various sectors  (j) Develop criteria for process on how complaints are to be dealt with  (k) Send a letter to the Minister to prescribe fees under section 111.  (l) Conduct inspections on adjudicators records  (m) Create a panel of experts to review provisions of codes where deemed necessary by the Regulator  (n) Develop process for how failure to comply with a code is dealt with under Chapter 10 (Enforcement) | Not yet developed | 30 June 2021 | None | R300.00 (for publishing in the Gazette through Government Printing Works) | CEO and Executive: POPIA and Executive: LPRITA | Members | Members of the Public | Parliament |
|  |
| **69(2). Direct marketing by means of unsolicited electronic communications** | The consent form (form 4) in terms of regulation 6 developed | The consent form is developed. | None | None | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **70. Directories** | None | None | None | None | Nil | None | None | None | None |
| **71. Automated decision making** | Development of guidelines on automated decision making and profiling | None | 31 March 2020 | Executive: POPIA and Executive: LPRITA | Nil | CEO and Executive: POPIA and Executive: LPRITA | Members | None | Parliament |
| **72(1)(a). Transfers of personal information outside Republic** | Development of guidelines on trans-border information flows | In development stage | 30 December 2020 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **73. Interferences with protection of personal information of data subject** | None | None | None | None | Nil | None | None | None | None |
| **74. Complaints** | Develop Rules of Procedure on the handling of complaints | None | None | Existing Executive: POPIA , Executive: PAIA and LPRITA | Nil | CEO and Existing Executive: POPIA , Executive: PAIA and LPRITA | Members | None | Parliament |
| To develop an Electronic Complaints Management System | Complaint Form (form 5) has been developed in regulations | None | Executive: POPIA , Executive: PAIA and LPRITA | Nil | CEO and Existing Executive: POPIA , Executive: PAIA and LPRITA | Members | None | Parliament |
| Procurement of the Electronic Complaints Management System | None | 31 March 2021 | Existing Executives: POPIA and PAIA, DOJ&CD Bid Committees | R1 Million | CEO, CFO and Executive: POPIA and PAIA | Members | DOJ&CD | Parliament |
| **75(2). Mode of complaints to Regulator** | Appointment of Complaint Registration Officer to assist data subject in lodging a complaint. | Position advertised | 31 October 2020 | Refer to the establishment of the administration of the Regulator in section 47 of POPIA | Budgeted for 2020/21 FY | CEO and Executive: CS | Members | None | Parliament |
| **76. Action on receipt of complaint** | (a) Establishment of Complaints and Investigating subdivision or unit  (b) Establishment of a Conciliation Unit  (c) Development of processes and procedures for referral of matters to the Enforcement Committee | Refer to section 40 above | Refer to section 40 above. | Refer to section 40 above. | Refer to section 40 above. | Refer to section 40 above. | Refer to section 40 above. | Refer to section 40 above. | Refer to section 40 above. |
| **77(3). Regulator may decide to take no action on complaint** | Pro- Forma Notice to take no action is been developed | Pro-forma has been developed | 31 March 2021 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | None |
| **78(2). Referral of complaint to Regulatory body** | A Template of Referral Notice to the Regulatory body and template of Referral Notice to the complainant. | None | 30 June 2021 | Existing Executive: POPIA and Executive: LPRITA | Nil | CEO and Executive: POPIA and Executive: LPRITA | Members | None | Parliament |
| Enter into memorandum of understanding with Regulatory bodies. | None | 30 June 2021 | Existing Executive: POPIA and Executive: LPRITA | Nil | CEO and Executive: POPIA and Executive: LPRITA | Members | None | Parliament |
| Enters into MOU’s with Regulatory bodies. | None | 30 June 2021 | Existing Executive: POPIA and Executive: LPRITA | Nil | CEO and Executive: POPIA and Executive: LPRITA | Members | None | Parliament |
| **79(a). Pre-investigation proceedings of Regulator** | Development of Regulator Notice of intension to conduct investigation | Form 8 developed | None | Existing Executive: POPIA and Executive: LPRITA | Nil | CEO and Executive: POPIA and Executive: LPRITA | Members | None | Parliament |
| **79(b). Pre-investigation proceedings of Regulator** | Regulator Notice to the complainant of its intension to conduct investigation | Form 8 developed | None | Existing Executive: POPIA and Executive: LPRITA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **80. Settlement of complaints** | (a) Develop a notice to parties regarding settlement meeting | Form 9 form developed | None | Existing Executive: POPIA, Executive: PAIA and Executive  LPRITA | Nil | CEO and Executive: POPIA, Executive: PAIA and Executive | Members | None | Parliament |
| (b) Development settlement certificate template | Form 10 settlement certificate developed | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **81(a). Investigation proceedings of Regulator** | Develop a subpoena template (subpoena of a person to appear or produce documents) | Not yet developed | 31 March 2021 | Existing Executive: POPIA, Executive: PAIA and Executive  LPRITA | Nil | CEO and Executive: POPIA, Executive: PAIA and Executive  LPRITA | Members | None | Parliament |
| **Section 81(b) Investigation proceedings** | Prescribe an oath to be administered | Not yet done | 31 March 2020 | Executive: POPIA, Executive: PAIA and Executive  LPRITA | None | Executive: POPIA, Executive: PAIA and Executive  LPRITA | Members | Members | Parliament |
| **82(2). Issue of warrants** | To develop Pro Forma Warrant of search and seizure | Not yet done | 31 March 2021 | Existing Executive: POPIA, Executive: PAIA and Executive  LPRITA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **83. Requirements for issuing of warrant** | Engagement with relevant stakeholders such as SAPS, NPA, Magistrates Commission. | Not yet done | 30 June 2021 | Executives for LPRITA, POPIA and POPIA and E&C | Nil | CEO and Executives | Member | None | Parliament |
| **84. Execution of warrants** | Engagement with relevant stakeholders such as SAPS, NPA, Magistrates Commission. | Not yet done | June 2021 | Executives for LPRITA, POPIA and POPIA and E&C | Nil | CEO and Executives | Members | None | Parliament |
| **85. Matters exempt from search and seizure** | Engagement with relevant stakeholders such as SAPS, NPA, Magistrates Commission. | Not yet done | None | None | Nil | None | None | None | None |
| **86. Communication between legal adviser and client exempt.** | None | None | None | None | Nil | None | None | None | None |
| **87. Objection to search and seizure** | Pro-forma objection notice to be developed | Not yet done | 31 March 2021 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **88. Return of warrants** | Procure an endorsement stamp | Not yet done | 31 March 2021 | Existing Executive: POPIA to procure the stamp | R500.00 | Executive: POPIA and CFO | CEO, CFO and Executive: POPIA | None | Parliament |
| **89(1). Assessment** | To develop a notice of intention to conduct an assessment | Form 11 developed | Form already in place and can be used from 1 July 2020 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **90. Information notice** | Develop a Pro- forma information Notice. | Not yet done | 31 March 2021 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **90(9) Information notice** | To develop Pro-forma notice for cancellation of Information Notice | Not yet done | 31 March 2021 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **91(2). Parties to be informed of result of assessment** | Development of criteria of what constitutes public interest. | Not yet done | 31 March 2021 | Executive: E&C | Budgeted for 2020/21 FY | CEO and Executive: E&C | Members | None | Parliament |
| **92. Matters referred to Enforcement Committee** | Make regulations regarding the procedure to be followed by the enforcement committee | Not yet done | 30 June 2021 | Existing Members | Nil | Chairperson | Members | None | Parliament |
| **93. Functions of Enforcement Committee** | None | None | None | None | Nil | None | None | None | None |
| **94. Parties to be informed of developments during and result of investigation** | To develop Pro-Forma Form informing Parties of the developments during and after the investigations. | Form 13-19 developed under regulations | To come into effect from 1 July 2020 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **95. Enforcement notice** | To develop pro-forma enforcement Notice | Refer to form 13 of the Regulations | To come into effect from 1 July 2020 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | South African Police Service (SAPS) | Parliament |
| **96. Cancellation of enforcement notice** | Develop Pro-Forma for cancellation/or variation of Enforcement Notice | Refer to Form 16 of the Regulations | To come into effect from 1 July 2020 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **97. Right of appeal** | None | Refer to Form 17 of the Regulations | To come into effect from 1 July 2020 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **98. Consideration of appeal** | None | None | None | None | Nil | None | None | None | None |
| **99.(4)(a) Civil remedies** | The Regulator to open a Trust Account | None | 31 March 2021 | Existing CEO and CFO | Nil | CEO and CFO | Members | National Treasury | Parliament |
| **100. Obstruction of Regulator** | None | None | None | None | Nil | None | None | None | None |
| **101. Breach of confidentiality** | None | None | None | None | Nil | None | None | None | None |
| **102. Obstruction of execution of warrant** | None | None | None | None | Nil | None | None | None | None |
| **103. Failure to comply with enforcement or information notices** | None | None | None | None | Nil | None | None | None | None |
| **104. Offences by witnesses** | None | None | None | None | Nil | None | None | None | None |
| **105. Unlawful acts by responsible party in connection with account number** | None | None | None | None | Nil | None | None | None | None |
| **106. Unlawful acts by the Responsible parties in connection with account number**. | None | None | None | None | Nil | None | None | None | None |
| **107. Penalties** | None | None | None | None | Nil | None | None | None | None |
| **108. Magistrate’s Court jurisdiction to impose penalties** | None | None | None | None | Nil | None | None | None | None |
| **109. Administrative fines** | Develop Pro Forma Infringement Notice | No yet done | 31 March 2021 | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | None | Parliament |
| **110. Amendment of Laws** | None | None | None | None | Nil | None | None | None | None |
| **111. Fees** | Send a letter to the Department of Justice and Constitutional Development requesting the Minister to prescribe fees under section 111. | None | 30 July 2020 | Chairperson | Nil | Minister | Members | Members | Parliament |
| **112(1). Regulations** | Regulations made by the Minister | Not yet done | Not yet decided | Minister | Nil | Minister | Minister | Regulator and Members of the Public | Parliament |
| **112)2) Regulations** | Regulations made by the Regulator | Regulations published in December 2018 | Already done in Dec. 2018 | Members | Nil | Chairperson | Members | Public and Parliament | Minister |
| **113. Procedure for making regulations** | none | None | None | Members | Nil | None | None | None | None |
| **114.(4) Transitional arrangements** | Consultations with South African Human Rights Commission (SAHRC) | Memorandum of Cooperation (MoC) signed between the Regulator and SAHRC and being implemented | On going until 30 June 2021 | Executive: PAIA | Nil | CEO and Executive: PAIA | Members | SAHRC | Parliament |
| **115** | None | None | None | None | None | None | None | None | None |

# REGULATIONS OR CODES OF CONDUCT REQUIRED IN TERMS OF POPIA

| **PROVISION OF POPIA** | **REGULATIONS**  **DEVELOPED** | **REGULATION / CODE OF CONDUCT THAT MUST BE DEVELOPED** | **TIMEFRAME** | **RESOURCES**  **REQUIRED** | **COST/ AMOUNT** | **RESPONSIBLE** | **ACCOUNTABLE** | **CONSULTED** | **INFORMED** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Section 11(3)(a)** | Objection to processing of personal information Yes, Regulation 2 Form 1 | None | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | Members and the Public | Parliament |
| **Section 14(3)(a)** | None | Retention or restriction of records in accordance with a code of conduct or prescribed law | 01 July 2021 | Existing Executive: POPIA | Nil | DOJ&CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **CONDITION 7**  **SECTION 19(3)** | None | Security Safeguards :security measures on integrity and confidentiality of personal information | 01 July 2021 | Existing Executive: POPIA | Nil | DOJ&CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **SECTION 24(1)** | Regulation 3 Request for correction or deletion of personal information or destruction or deletion of record of personal information Form 2 | None | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | Members and the Public | Parliament |
| **Section 32 (1) (b) and (f) and Section 32(6)** | None | R**e**gulations in terms of Section 32(6) processing of health information by certain responsible parties under 32(1) (b) and (f) | 01 July 2021 | Existing Executive: POPIA | Nil | DOJ& CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **Section 55(1) ( e)** | Regulation 4:  Duties and Responsibilities of Information Officers | Develop guidelines for the Duties and Responsibilities of Information Officers : | 01 July 2021 | Existing Executive: POPIA | Nil | DOJ& CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **Section 57 (2)** | None | Regulations on Prior Authorisation Processing | 01 July 2021 | Executive: POPIA | R Nil | DOJ& CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **Section 60** | None | Guidelines to develop codes of conduct (currently (in progress) | 01 July 2021 | Members and Executives | Nil | CEO and Executive: POPIA | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **Section 61 (1) (b)** | Application for issuing a code of conduct Regulation 5 Form 3 | None | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | Members and the Public | Parliament |
| **Section 69 ( 2)** | Request for data subjects consent to process personal information Regulation 6, Form 4 | None | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **Section 74(1)**  **(2)** | Submission of a complaint Regulation 7 , Form 5 | None | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | Members and the Public | Parliament |
| **Section 76 (1) (b)** | Regulator acting as conciliator during investigation Regulation 8 Form 6 | None | None | Executive: POPIA | Nil | CEO and Executive: POPIA | Members | Members and the Public | Parliament |
| **Section 79** | Pre-investigation proceedings of Regulator, Regulation 9 Form 8 | None | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | Members and the Public | Parliament |
| **Section 79(b)(ii) and Section 80** | Settlement of complaints, Regulation 10 Form 9 | None | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | Members and the Public | Parliament |
| **Section 89 (1)** | Assessments, Regulation 11, Form 11 | None | None | Existing Executive: POPIA | Nil | CEO and Executive: POPIA | Members | Members and the Public | Parliament |
| **Section 92 (2)** | None | Enforcement Committee Procedural Guidelines | 01 July 2021 | Members | Nil | DOJ&CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **Section 94** | Informing of parties of developments regarding investigation  Regulation 12  Form 13  Form 14  Form 15  Form 16  Form 17  Form 18  Form 19 | None | None | Existing Executive: POPIA and PAIA | Nil | CEO and Executive: POPIA | Members | Members of the Public |  |
| **Section 111(1) and 112(b)** | None | Regulations on Prescribed Fees in terms of  111. (1) (a) and(b)  111(2) The Minister may, subject to section 113 and) and (b), respectively. | 01 July 2021 | Existing Executive: POPIA | Nil | DOJ&CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| Section 112(1) | Yes | Establishment of the Regulator | None | None | Nil | DOJ&CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |
| **Section 112 (2) (m) and Section 109** | None | Administrative Fines | 01 July 2021 | Existing Executive: POPIA | Nil | DOJ& CD Legislative Development Branch and Members | Minister of Justice and Constitutional Development | Members and the Public | Parliament |