

Guidelines and Training Manual

Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07

The Protection of Personal Information (POPI) Act

as published in the Government Gazette Notice 37067 on 26 November 2013

This is a guide!

Its purpose is to assist you and your company to be compliant and to align with the intent and purpose of the Act. The provisions of POPI are a reflection of the ideals as enshrined in common law and more importantly Section 14 of the Constitution.

Unfortunately POPI is not an event, in essence it requires a change in corporate culture and a concerted and directed effort. POPI Compliance requires at least the following:

- Will from management
- Training of staff
- Regular inspection and process flow management
- Reporting and measurement
- Re-training

Steps to POPI:

- Appointment of a COMPLIANCE OFFICER.
- Your POPI Training Guide and Compliance Manual is only your, "Introduction to POPI", The Start.
- No two business are the same, you will need to build your own corporate culture regarding POPI.
- The Golden Rule for POPI is; Personal Information has now become, "*Treasured Goods*".
- The guide serves to outline the fundamentals of the Act including the following;
 - Who are the role players?
 - What is meant by "Personal Information"?
 - What is "Processing"?
 - The job of the Compliance Officer .
 - Checklists and guides.

Section 51 Manual

in terms of

The Promotion of Access to Information Act, (Act 2 of 2000)

Incorporating additional requirements of

The Protection of Personal Information Act, (No 4 of 2013)

for

Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07

SECTION 51 MANUAL FOR Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07 (1963/003925/07)

INFORMATION REQUIRED UNDER SECTION 51(1)(a) OF THE ACT

Postal Address of head of Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07:

P.O Box 2315 Tzaneen 0850

Physical Address of head of Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07:

Per address, Katope/Univeg building, 7 Windsor street Tzaneen 0850

Tel. No of head of Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07:

0153073120

Fax. No of head of Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07:

0866913841

Email address of head of Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07:

theunsoli4@mweb.co.za

DESCRIPTION OF GUIDE REFERRED TO IN SECTION 10: SECTION 51(1)(b)

A guide has been compiled in terms of Section 10 of PAIA by Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07. It contains information required by a person wishing to exercise any right, contemplated by PAIA.

This Guide is available for inspection, inter alia, at the office of the offices of Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07 at the physical address above and at the SAHRC.

THE LATEST NOTICE IN TERMS OF SECTION 52(2) (IF ANY):

At this stage no notice(s) has/have been published on the categories of records that are automatically available without a person having to request access in terms of PAIA.

ACTS AND OTHER LEGISLATION HELD AT PHYSICAL ADDRESS BY Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07

- Basic Conditions of Employment 75 of 1997
- Companies Act 71 of 2008
- Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- Employment Equity Act 55 of 1998
- Labour Relations Act 66 of 1995
- National Road Traffic Act 93 of 1996
- Occupational Health and Safety Act 85 of 1993
- Promotion of Access to Information Act 2 of 2000

SUBJECTS AND CATEGORIES OF RECORDS HELD AT PHYSICAL ADDRESS BY Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07

- Attendance registers
- Correspondence
- Founding Documents
- Licences (categories)
- Minutes of Management Meetings
- Minutes of Staff Meetings
- Shareholder Register
- Statutory Returns
- Conditions of Service
- Employee Records
- Employment Contracts
- General Correspondence
- Industrial and Labour Relations Records
- Information relating to Health and Safety Regulations
- Pension and Provident Fund Records
- Performance Appraisals
- Personnel Guidelines, Policies and Procedures
- Remuneration Records and Policies
- Salary Surveys
- Skills Requirements
- Staff Recruitment Policies

- Statutory Records
- Training Records
- Brochures on Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work-In-Progress
- Marketing Records
- Production Records
- Sales Records
- Suppliers Registry
- Annual Financial Statements
- Asset Register
- Banking Records
- Budgets
- Financial Transactions
- Insurance Information
- Internal Audit Records
- Management Accounts
- Purchase and Order Information
- Stock Records
- Tax Records (company and employee)
- IT Policies and Procedures
- User Manuals

SUBJECTS AND CATEGORIES OF PERSONAL RECORDS HELD AT PHYSICAL ADDRESS BY Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07

- FICA Docs
- Identity Numbers
- Dates of birth
- Telephone numbers
- eMails
- Addresses
- Banking details
- Bank account numbers
- Contractual agreements
- Invoices

CUSTOMER PERSONEL INFORMATION SHARED BY Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07

Group companies

EMPLOYEE INFORMATION RECEIVED BY Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07)

- Provident/pension funds
- Medical aid funds

IT PRACTISES BY Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07)

- Physical security, (PC's locked to fixture/locked computer room)
- Password controls
- Virus & Malware protection
- Software updates
- Disaster recovery & back-up policy

COUNTRIES OF OPERATION

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DETAIL ON HOW TO MAKE A REQUEST FOR ACCESS - SECTION 51(e)

- The requester must complete Form B and submit this form together with a request fee, to the head of the private body
- The form must be submitted to the head of the private body at his/her address, fax number or email address
- The form must:
 - provide sufficient particulars to enable the head of the private body to identify the record/s requested and to identify the requester
 - indicate which form of access is required
 - *specify a postal address or fax number of the request in the Republic*
 - identify the right that the requester is seeking to exercise or protect
 - provide an explanation of why the requested record is required for the exercise or protection of that right
 - in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, to state that the manner and the necessary particulars to be informed in the other manner, if the request is made on behalf of another person, to submit proof of capacity in which the requester is making the request, to the reasonable satisfaction of the head of the private body.

FORM B

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Section 53(1) of the Promotion of Access to Information Act, 2000

(Act No. 2 of 2000)

[Regulation 10]

A. Particulars of private body

The Head:

B. Particulars of person requesting access to the record

- | | |
|-----|---|
| (a) | The particulars of the person who requests access to the record must be given below. |
| (b) | The address and/or fax number in the Republic to which the information is to be sent must be given. |
| (c) | Proof of the capacity in which the request is made, if applicable, must be attached. |

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

| |
|--|
| This section must be completed <i>ONLY</i> if a request for information is made on behalf of another person. |
|--|

Full names and surname:

Identity number:

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form.
- The requester must sign all the additional folios.

- 1 Description of record or relevant part of the record:
- 2 Reference number, if available:
- 3 Any further particulars of record:

E. Fees

- (a) A request for access to a record, other *than* a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be *notified* of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends *on* the form *in which* access is required and the reasonable time *required* to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

| Disability: | Form in which record is required |
|--|----------------------------------|
| Mark the appropriate box with an X. | |
| NOTES: | |
| (a) Compliance with your request in the specified form may depend on the form in which the record is available. | |
| (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form. | |
| (c) The fee payable for access for the record, if any, will be determined partly by the form in which access is requested. | |

| | |
|--|---|
| 1. If the record is in written or printed form: | |
| <input type="checkbox"/> copy of record* | <input type="checkbox"/> inspection of record |
| 2. If record consists of visual images | |
| this includes photographs, slides, video recordings, computer-generated images, sketches, etc) | |

POPI COMPLIANCE OFFICER
Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07)

CERTIFICATE OF APPOINTMENT

Johannes Adolf de Kock as Head of **Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07)** confirm I will act as the POPI COMPLIANCE OFFICER.

or

Johannes Adolf de Kock as Head of **Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07)**, I confirm I have appointed **Marthinus Cornelius Olivier** to act as the POPI COMPLIANCE OFFICER.

The purpose of this appointment is to give effect to; the right to privacy in terms of our common law, section 14 of the Constitution and the purpose and application of the Protection of Personal Information Act, No 4 of 2013.

Specifically to implement and maintain the provisions of the POPI Act including but not limited to the following:

- To give effect to the constitutional right to privacy by safeguarding personal information when processed by a responsible party.
- To 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.
- To provide persons with rights and remedies to protect their personal information from processing that is not in accordance with the Act.

The Act regulates how anyone who processes personal information must handle, keep and secure that information. If an individual or a company processes personal information relating to a person, that individual or company must comply with the Act. Failure to comply with the Act may lead to the imposition of certain penalties under the Act.

Punishable offences in terms of the Act The following offences are, if committed, punishable with either a fine (not exceeding R10 million), or imprisonment (for a period not exceeding 10 years), or both:

- Obstruction of a Regulator.
- Failure to comply with enforcement or information notices.
- Offences by witnesses - Giving false evidence before the Regulator.
- Unlawful acts by a responsible party in connection with information/usage.
- Unlawful acts by third parties in connection with information/usage.
- Any person who sells/offers to sell information obtained illegally.
- Failure to notify the Regulator that processing is subject to prior authorization.
- Breach of confidentiality.
- Obstruction of the execution of a warrant.



SIGNATURE

Johannes Adolf de Kock

as Head of **Eastern Produce Estates South Africa (PTY) Ltd (1963/003925/07)**



SIGNATURE

Marthinus Coi

2017-01-12

POPI COMPLIANCE OFFICER - TRAINING OVERVIEW

Who are the role players?

- Data Subject: the person to whom the information relates.
- Responsible Party: Your company, a private or public body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information;
- Operator: a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of the responsible party.
- Regulator: The Information Protection Regulator established by POPI.

What is meant by “Personal Information”?

“Personal Information”, means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, and may include the following:

- 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.
- Information relating to the education or the medical, financial, criminal or employment history of the person.
- Any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person.
- The biometric information of the person. **(Biometric information includes a technique of personal identification that is based on physical, physiological or behavioural characterization including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition.*
- The personal opinions, views or preferences of the person.
- 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.
- The views or opinions of another individual about the person.
- 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.

Both INDIVIDUALS and COMPANIES are included in the ambit of “personal information”.

What is "Processing"?

- Processing is *ANY* activity concerning personal information, e.g.
 - the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
 - dissemination by means of transmission, distribution or making available in any other form;
 - merging, linking, blocking, degradation, erasure or destruction of information.

Not covered:

- Purely household activity.
- Information that has been de-identified, (*cannot identify a person*).

It is not "personal information" if the information is already in the public domain or is not used, or intended to be used, in trade or commerce.

Your job as the POPI COMPLIANCE OFFICER in your organisation is to form a view and take steps in order to:

- Clearly understand the data processing activities that an organisation engages in;
- Training of relevant staff should be conducted on a continuous basis to ensure that staff are trained to understand the impact of POPI on their particular area of focus within the organisation;
- Consider whether appropriate written contracts are in place with *third parties* for whom personal data is processed, or to whom the processing of personal data is outsourced;
- Evaluate the security measures in place to keep personal data secure at all times;
- The terms under which intra-group transfers of personal data are made;
- Consider, in detail, the cross-border transfer of personal data; and review internal procedures ensuring continued compliance with POPI and the effective and efficient handling of enquiries and complaints by individuals.

POPI compliance 101, you need ensure:

- The legitimate grounds for collecting and using personal data collected in order to ensure that data is not used in ways that have unjustified adverse effects on the individuals concerned;
- The lawful purpose for which data are being collected to ensure that the data shall not be further processed in any manner that is contrary to that purpose or the purposes for which the data were collected;
- The extent of information that is required for the purpose as intended and to ensure that they collect adequate and relevant information and prevent any excessive information collection;
- The information retention periods and requirements applicable together with destruction processes and procedures;
- The rights of individuals, i.e. data subjects, in terms of POPI.

POPI compliance, other issues you need to deal with:

- Security measures required to prevent the unauthorised or unlawful processing of personal data/ access to personal data, including accidental loss or destruction or damage to personal data;
- If you transfer data outside the country, to understand the roles, duties and responsibilities of all parties involved; and
- What processes and procedures should be in place to ensure that data is kept up to date and current and accurate at all times.

| SECURITY IMPLEMENTATION CHECKLIST | | | |
|---|------|---------|--------------------------|
| Premises | Date | Comment | Recommended Intervention |
| Inspection of physical security & access | | | |
| Access control, cards, tags & biometrics | | | |
| Burglar Bars | | | |
| Alarm & deactivation codes | | | |
| Armed response | | | |
| No-go areas, demarcated | | | |
| Risk analysis of security issues | | | |
| Filing and Physical Record keeping | | | |
| Locked offices & cabinets | | | |
| No-go areas | | | |
| Proper disposal of records/files/hard copy - shredding policy | | | |
| Work/document flow - data remains secure | | | |
| File integrity & backup | | | |
| Staff | | | |
| Keys to authorised employees only | | | |
| Alarm codes | | | |
| Area specific access | | | |
| Staff are aware of their POPI obligations | | | |
| Third Party Processing | | | |
| External Operators all have written contracts | | | |
| External Operators are aware of data usage security and limitations | | | |
| External Operators Confidentiality requirements | | | |
| Inspection of 3rd parties premises, systems & compliance (Monthly) | | | |
| IT and Data | | | |
| Computers physically secured | | | |
| Password policy | | | |
| Encryption of data | | | |
| Back-ups policy & schedule | | | |
| Person appointed to manage backups | | | |
| Off-site storage | | | |
| Proper disposal of damaged devices/data drives | | | |
| Network, Internet & www Security | | | |
| Mobile devices | | | |
| No flash drives / removable media in restricted areas | | | |
| Private devices not permitted to sync on networks | | | |
| Laptop - data encrypted | | | |
| Laptop - password secured | | | |
| Theft prevention strategy | | | |
| Security breaches | | | |
| Any loss of data / security breach the regulator | | | |
| Any loss of data / security breach the data subjects | | | |
| | | | |

POPI COMPLIANCE

The 10 Protection Principles for Responsible Parties

1. Accountability

The **Responsible Party** must ensure compliance. The Responsible Party is required to **audit the processes used to collect, record, store, disseminate and destroy personal information:** in particular, ensure the integrity and safekeeping of personal information in your possession or under your control.

The Responsible Party must take steps to prevent the information being lost or damaged, or unlawfully accessed.

2. Purpose Specification

The Responsible Party must **define the purpose of the information gathering and processing:** personal information must be collected for a specific, explicitly defined and lawful purpose that is related to a function or activity of the company concerned.

3. Processing Limitation

The Responsible Party must ensure **processing is lawful** and:

- Is done in a reasonable manner that does not infringe the privacy of the data subject.
- Must be adequate, relevant and not excessive given the purpose.
- Must have obtained consent or necessity, if consent, it must be *Voluntary, Specific, Informed*.

Data subject consent is required - **BUT NOT** if;

- Would prejudice lawful purpose, or
- Information is contained in public record.

What is “**Special Personal Information**”?

- religious or political beliefs
- race or ethnic origin
- trade union membership
- political opinions
- health, sexual life
- criminal behaviour.

4. Take steps to notify the ‘data subject’

The individual whose information is being processed has the right to know this is being done and why.

The data subject must be told;

- the name and address of the company processing their information,
- he or she must be informed as to whether the provision of the information is voluntary or mandatory.

5. Further Processing limitation - (limit the processing parameters)

To assess whether further processing is permitted - Ask the following:

- Is there a valid relationship between the purposes?
- What is the nature of information?
- What are the consequences for data subject?
- The manner in which information was collected?
- Are there any contractual rights between the parties?

To check the rationale for any further processing - Ask the following:

- If information is received via a third party for further processing, this further processing must be compatible with the purpose for which the data was *initially* collected.

6. Information quality

The Responsible Party must take reasonably practicable steps to ensure that the information is:

- Complete
- Accurate
- Not misleading; and
- Updated where necessary

Notify the information *Protection Regulator*:

Once POPI is FULLY enacted and a Regulator established, organisations processing personal information will have to notify the Regulator about their actions.

AND

The Responsible Party must take reasonable steps to notify the data subject of:

- Information being collected
- Purpose for which information is collected
- Whether the supply of information is voluntary or mandatory
- The consequences of failure to provide information
- Any particular law that applies

You will only need to notify once, not each instance of processing, but if processing is different than initially notified, you are required to notify within 1 year.

7. Accommodating data subject requests

POPI allows data subjects to make certain requests, *free of charge*, to organisations holding their personal information.

For instance, the data subject has the right to know the identity of all third parties that have had access to their information. A data subject can also ask for a record of the information concerned.

8. Security

The Responsible Party is required to *secure the integrity of personal information* by taking appropriate, reasonable technical and organisational measures to prevent;

- Loss, damage or unauthorised access
- Unlawful access to or processing of personal information

The Responsible Party must take all reasonable measures to;

- Identify all reasonably foreseeable internal and external risks
- Establish and maintain appropriate safeguards against the risks
- Regularly verify that the safeguards are adequately implemented
- Ensure the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards

The Responsible Party must oversee an Operator who processes data on his/her behalf.

Responsible Party must be aware;

- The Operator must treat information confidentially
- The Responsible Party must ensure that the operator establishes and maintains appropriate security safeguards
- ALL processing by an operator must be governed by a written contract
- In the event of security breaches, the Responsible Party must notify the Regulator and the data subject

9. Retain records for required periods

- Personal information must be destroyed, deleted or 'de-identified' as soon as the purpose for collecting the information has been achieved.
- However, a record of the information must be retained if an organisation has used it to make a decision about the data subject. The record must be kept for a period long enough for the data subject to request access to it.

10. Cross Border Data Transfer

There are restrictions on the sending of personal information out of South Africa as well as on the transfer of personal information back into South Africa.

The applicable restrictions will depend on the laws of the country to whom the data is transferred or from where the data is returned, as the case may be.

The Responsible Party must institute a written protocol to cover these aspects.

Roles and Responsibilities of an OPERATOR

1. Who is Who

- **Data Subject:** the person to whom the information relates
- **Responsible Party:** The entity which determines the purpose of and means for processing personal information;
- **Operator:** The company or a person who processes personal information for a responsible party *in terms of a contract or mandate*, without coming under the direct authority of the responsible party;
- **Regulator:** The Information Protection Regulator, established by POPI.

2. Duties of an Operator

All Information processed by an operator must be treated in the following manner:

- The Responsible party must be aware of the Operators processing.
- The Operator must treat information confidentially.
- The Responsible party must ensure that the Operator establishes and maintains appropriate security safeguards.
- In the event of security breaches, the Operator via the Responsible party must notify the Regulator and the data subject.
- The processing by an operator must be governed by a written contract between the Responsible party and the Operator.

3. Contents of the Contract

The Contract between Operator and Responsible Party must detail at least the following:

- the legitimate grounds for collecting and using personal data collected,
 - the **lawful purpose** for which data are being collected,
 - the **limit of processing** and prohibiting of further processing,
 - the extent of **information that is required** to prevent any excessive information collection,
 - the information **retention periods** and requirements applicable together with destruction processes and procedures,
- The **right of individuals to request** such information and query the use thereof,
- The **security measures** required to prevent the unauthorised or unlawful processing of personal data or access to personal data, including accidental loss or destruction or damage to personal data.

DEALING WITH SPECIAL PERSONAL INFORMATION

1. Religious or Philosophical Beliefs

Processing may take place by:

- Spiritual or religious organisations & institutions, provided that the information concerns data subjects belonging to such organisations; if it is necessary to achieve their aims and principles; or
- To protect the spiritual welfare of the data subjects.

Unless they have objected to the processing.

This information may not be supplied to 3rd parties without the data subject's consent.

2. Race

Processing may be carried out to:

- Identify data subjects when this is essential
- Comply with laws or measures designed to protect or advance persons disadvantaged by unfair discrimination

3. Trade Union Membership

Processing may take place by a trade union to which the data subject belongs, or the trade union federation to which the trade union belongs, if the processing is necessary to achieve the aims of the trade union/trade union federation.

This information may not be supplied to 3rd parties without the data subject's consent.

4. Political Persuasion

Processing may take place by an institution founded on political principles if such processing is necessary to achieve the aims or principles of the institution.

This information may not be supplied to 3rd parties without the data subject's consent.

5. Health or Sexual Life

Processing may take place by:

- Medical practitioners, healthcare institutions
- Insurance companies, medical aid scheme providers
- Schools
- Institutions of probation, child protection or guardianship
- Pension funds and employers if processing is necessary for:
 - Implementation of laws/pension regulations

- Re-integration/support for workers or persons entitled to benefit in connection with sickness/work incapacity

Processing must be confidential!

6. Criminal Behaviour

Processing may take place by:

- Bodies charged by law with applying criminal law
- Responsible parties who have obtained the information in accordance with the law
- Responsible parties who process the information for their own lawful purposes to;
 - assess an application by a data subject in order to take a decision about or provide a service to that data subject;
 - protect their legitimate interests in relation to criminal offences.

7. General Exemptions

The Regulator may authorise processing of any information, which will not be in breach of POPIA, if the public interest includes;

- the legitimate interests of State security
- the prevention, detection and prosecution of offences
- important economic and financial interests of the State or a public body
- historical, statistical or research activity.

DIRECT MARKETING BY MEANS OF UNSOLICITED ELECTRONIC COMMUNICATIONS

Definition

Direct Marketing - the use of personal information for the purposes of direct marketing by means of any form of electronic communication.

- Direct marketing is **PROHIBITED** unless - you have consent, or the target is already a customer.
- You may only approach a person for consent, **ONCE**, and if they have not previously withheld such consent.
- You may only **USE** the information for the purpose it was obtained, for a customer.

Any communication for the purpose of direct marketing must contain;

- Details of *the identity of the sender*,
- The address or other contact details to which the recipient may send a request to *opt-out*.