

Financial institutions
Energy
Infrastructure, mining and commodities
Transport
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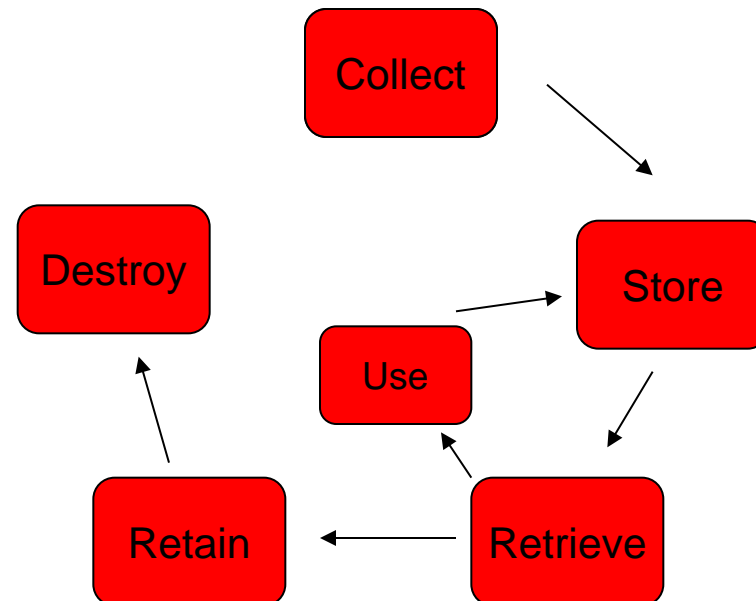
 **NORTON ROSE FULBRIGHT**

PROTECTION OF PERSONAL INFORMATION BILL

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Purpose

To regulate the processing of personal information by public and private bodies



Personal information

- An identifiable, living, natural person's information, including, but not limited to:
 - 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
 - Education, medical, financial, criminal or employment history
 - Id number, physical address, telephone number
 - Personal views, opinions and preferences, and private or confidential correspondence

Provisions

- Protection of personal information processed by public and private bodies
- Conditions establishing minimum requirements for processing of personal information
- Establishes an Information Regulator
- Provides for Codes of Conduct
- Provides rights regarding unsolicited electronic communications and automated decision-making
- Regulates flow of personal information across borders of the Republic

Rights of data subjects:

Application provisions

- Rule for processing
- Objection
- Notification
- Establishing whether the responsible party holds information
- Request correction, destruction or deletion
- Refuse processing for direct marketing by unsolicited electronic communications
- Complaint Regulator
- Institute civil proceedings

Exclusions

- Processing in the course of purely personal or household activity (alternate options)
- De-identified and cannot be re-identified
- By a public body regarding national security or prevention and detection
- Investigation or proof of offenses
- Prosecution of offenders
- Execution of sentences or security measures
- For Exclusively Journalistic Purposes (alternate options)
- By the Cabinet and Committees and Executive Council
- Relating to judicial functions of the court
- Exempted in terms of section 37

8 Conditions For Lawful Processing

- Accountability
- Processing Limitations
- Specific Purpose
- Further Processing
- Information Quality
- Openness
- Security Safeguards
- Data Subject Participation



8 Conditions For Lawful Processing

- Processing Limitations:
 - Data subject to consent
 - Processes necessary to carry out actions to conclude or perform a contract to which the data subject is a party
 - Processing compliance with an obligation imposed by law
 - To protect the legitimate interest of data subject
 - For proper performance of public law duty by a public body
 - Pursue legitimate interests of other responsible party or third party to whom the information was supplied
 - Data subject may withdraw consent
 - Data subject may object on reasonable grounds

8 Conditions For Lawful Processing

- Purpose Specific
 - May not retain records if no longer necessary
 - Must destroy records if no longer authorised to retain
- Further Processing
 - Original Purpose
 - Consent required
- Information Quality
 - Complete, accurate & up to date
- Openness
 - Notify when collecting
- Security Safeguards
 - Integrity & confidentiality
 - Notify data subject and Regulator of breach

Information Regulator

- Independent
- Impartial and act without fear, favour or prejudice
- Independent
- Subject only to the Constitution and the law
- Act in accordance with POPI and Promotion of Access to Information Act

Offences & Penalties

- Minor Offence:
 - Fine and/or imprisonment up to 12 months

- Major Offence:
 - Fine and/or imprisonment up to 10 years



Offences & Penalties

- Regulator May:
 - Monitor & Enforce Complaints
 - Settle
 - Information notice
 - Administrative fines (R10 million)
- Civil Proceedings:
 - Regardless of intention or negligence
 - Damages patrimonial & non-patrimonial
 - Aggravated damages
 - Interest and costs



General Provisions

- One year to conform
- Minister may extend it to three years



Questions?





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