
COMPLIANCE MANUAL IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT

UKHOZI SYSTEM SOLUTIONS PROPRIETARY LIMITED

(Registration Number: 2014/051160/07)

Prepared in accordance with the provisions of the Protection of Personal Information Act, 2013

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Definitions

The following terms used in this Manual and Legislation are defined as follows:

“The POPI Act”: The Protection of Personal Information Act, 4 of 2013, and includes any regulation under this act.

“Automated means”: Any equipment capable of operating automatically in response to instructions given for the purpose of processing information.

“Biometrics”: A technique of personal identification that is based on physical, physiological or behavioral characterisation including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition.

“Body”: Public or private body.

“Child”: A natural person under the age of 18 years who is not legally competent, without the assistance of a competent person, to take any action or decision in respect of any matter concerning him or herself.

“Code of conduct”: A code of conduct issued by the Regulator in terms of Chapter 7 of the Act.

“Competent person”: Any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child.

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

“Constitution”: The Constitution of the Republic of South Africa, 1996.

“Data subject”: The person to whom personal information relates.

“De-identify”: In relation to personal information of a data subject, means to delete any information that identifies the data subject, can be used or manipulated by a reasonably foreseeable method to identify the data subject, or can be linked by a reasonably foreseeable method to other information that identifies the data subject.

“Direct marketing”: To approach a data subject, either in person or by mail or electronic communication, for the direct or indirect purpose of promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject, or requesting the data subject to make a donation of any kind for any reason.

“Electronic communication”: Any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient’s terminal equipment until it is collected by the recipient.

“Enforcement notice”: A notice issued by the Regulator to a responsible party in order to take certain action.

“Filing system”: Any structured set of information, whether centralised, decentralised or dispersed on a functional or geographical basis, which is accessible according to specific criteria.

“Head”: Of, or in relation to, a private body means:

- a) in the case of a natural person, that natural person or any person duly authorised by that natural person;
- b) in the case of a partnership, any partner of the partnership or any person duly authorised by the partnership;
- c) in the case of a juristic person the chief executive officer or equivalent officer of the juristic person or any person duly authorised by that officer;

“Information matching programme”: The comparison, whether manually or by means of any electronic or other device, of any document that contains personal information about ten or more data subjects with one or more documents that contain personal information of ten 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.

“Minister”: The Cabinet member responsible for the administration of justice.

“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 that party. This means that the information you process is not for your direct client, employee, supplier, etc. but rather that of another entity. For example, if you provide payroll services and as such process the information of another entity’s employees.

“Person”: A natural person or a juristic person.

“Personal information”: 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, location information, online identifier or other particular assignment to the person;
- d) the biometric information of the person;
- e) the personal opinions, views or preferences of the person;
- f) 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;
- g) the views or opinions of another individual about the person; and
- 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.

“POPI”: Protection of Personal Information.

“POPIA”: Protection of Personal Information Act

“PAIA”: Promotion of Access to Information Act

“Prescribed”: Prescribed by regulation or by a code of conduct.

“Private body”:

- a) a natural person who carries or has carried on any trade, business or profession, but only in such capacity;
- b) a partnership which carries or has carried on any trade, business or profession; or
- c) any former or existing juristic person but excludes a public body.

“Processing”: Any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including:

- a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- b) dissemination by means of transmission, distribution or making available in any other form; or
- c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

“Professional legal adviser”: Any legally qualified person, whether in private practice or not, who lawfully provides a client, at his or her or its request, with independent, confidential legal advice.

“Public body”:

- a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
- b) any other functionary or institution when:
 - a. exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
 - b. exercising a public power or performing a public function in terms of any legislation.

“Public record”: 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.

“Record”: Any recorded information:

- a) regardless of form or medium, including any of the following:
 - a. Writing on any material;
 - b. 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;
 - c. label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
 - d. book, map, plan, graph or drawing;
 - e. 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;
- b) in the possession or under the control of a responsible party;
- c) whether or not it was created by a responsible party; and

d) regardless of when it came into existence.

“Regulator”: The Information Regulator established in terms of section 39 of the Act.

“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, “re-identified” has a corresponding meaning.

“Republic”: The Republic of South Africa.

“Responsible party”: 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.

“Restriction”: To withhold from circulation, use or publication any personal information that forms part of a filing system, but not to delete or destroy such information.

“Special personal information”:

- a) the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a data subject; or
- b) the criminal behaviour of a data subject to the extent that such information relates to:
 - a. the alleged commission by a data subject of any offence; or
 - b. any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings.

“Unique identifier”: Any identifier that is assigned to a data subject and is used by a responsible party for the purposes of the operations of that responsible party and that uniquely identifies that data subject in relation to that responsible party.

1. INTRODUCTION

- i. The Protection of the Personal Information Act, No. 4 of 2013 (the “POPI Act”) seeks to give effect to the constitutional right to privacy as contained in section 14 of the Bill of Rights and aims to:
 - Promote the protection of personal information processed by public and private bodies;
 - Introduce certain conditions so as to establish minimum requirements for the processing of personal information;
 - Provide for the establishment of an information regulator to exercise certain powers and to perform certain duties and functions in terms of this act and the promotion of access to information act, 2000;
 - Provide for the issuing of codes of conduct;
 - Provide for the rights of persons regarding unsolicited electronic communications and automated decision making;
 - Regulate the flow of personal information across the borders of the republic; and
 - Provide for matters connected therewith.
- ii. The POPI Act seeks to safeguard personal information by regulating the manner in which it may be processed by both public and private bodies.
- iii. The POPI Act provides that data subjects have the right to have their personal information processed in accordance with the eight conditions for the lawful processing of personal information namely :-
 - Accountability
 - Processing Limitation
 - Purpose Specification
 - Further Processing Limitation
 - Information Quality
 - Openness

- Information Security
- Data Subject Participation

2. SCOPE AND PURPOSE OF THE MANUAL

Ukhozi System Solutions Proprietary Limited (herein after referred to as Ukhozi System Solutions) guarantees its commitment to protecting the privacy of its Data Subjects and ensuring that their personal information is used appropriately, transparently, securely and in accordance with applicable laws. The Policy sets out the manner in which Ukhozi System Solutions deals with the personal information of data subjects and stipulates the purpose for which said information is used.

3. AVAILABILITY OF THE MANUAL

This manual is available for inspection during normal business hours at the office of Ukhozi System Solutions, located at:

2 NCONDO PLACE,
UMHLANGA RIDGE,
DURBAN,
4320

4. ACCOUNTABILTY

- The Responsible Party must ensure that all of the conditions as referred to in the POPI Act are complied with at the time of;-
 - Determining the purpose of the processing;

- ii. Determining the means of the processing; and
- iii. During the processing itself.
- iv. An Information Officer's responsibilities include:
 - the encouragement of compliance, by the body, with the conditions for the lawful processing of personal information;
 - dealing with requests made to the body pursuant to this Act;
 - working with the Regulator in relation to investigations conducted pursuant to Chapter 6 in relation to the body;
 - otherwise ensuring compliance by the body with the provisions of this Act
- v. An Information Officer must in addition to the responsibilities referred to in section 55 (1) of the Act, ensure that:
 - A compliance framework is developed, implemented, monitored and maintained.
 - A personal information impact assessment is done to ensure that adequate measures and standards exist in order to comply with the conditions for the lawful processing of personal information.
 - A manual is developed, monitored, maintained and made available as prescribed in sections 14 and 51 of the Promotion of Access to information Act 2000.
 - Internal measures are developed together with adequate systems to process requests for information or access thereto.
 - Internal awareness sessions are conducted regarding the provisions of the Act, regulations made in terms of the Act, codes of conduct, or information obtained from the Regulator.
 - The Information Officer shall upon request by any person, provide copies of the manual to that person upon the payment of a fee to be determined by the Regulator from time to time.

vi. **Appointment of the Information Officer of Ukhozi System Solutions:**

- According to Section 56 of the POPI Act, each Public and Private Body must make provision for the designation of an Information Officer and as a responsible party, Ukhozi System Solutions undertakes to ensure that the conditions for the lawful processing of personal information is complied with. This is done through the appointment of an Information Officer who will take responsibility and accountability for the provisions of the Act.
- Ukhozi System Solutions is an entity duly incorporated according to the laws of the Republic of South Africa and the responsibility for the administration of, and compliance with the POPI Act, has been delegated to the Director, Remon Naidoo, who has accepted and acknowledged his role as the Information Officer and is aware of the accountability that comes with it.
- The current Information Officer has been registered with the Information Regulator. Should there be a change in the designation of the Information Officer, the particulars will be updated. The details of the Information Officer will be made available on the website of the Information Regulator at www.justice.gov.za/infoereg/

vii. **Requests pursuant to the provisions of the POPI Act should be directed as follows:**

Information Officer: Director (Mr Remon Naidoo)

Postal Address: P O BOX 264, Sarnia, Pinetown, Kwa-Zulu Natal, 3615

Physical Address: 2 Ncondo Place, Umhlanga Ridge, Umhlanga, 4320

Physical Address: 35 Rd 740, Montford, Chatsworth, Kwa-Zulu Natal, 3615

Business Phone Number: TEL – 031 830 5348, CELL – 073 185 6444

E-mail address: remon@ukhozisystems.co.za

5. PROCESSING LIMITATION

i. Section 9 of the POPI Act states that:

Personal information must be processed lawfully and in a reasonable manner that does not infringe the privacy of the data subject

ii. Section 10 of the POPI Act states that:

Personal Information may only be processed if, given the purpose for which it is processed, it is adequate, relevant and not excessive.

iii. **The purpose for which personal information is processed by Ukhozi System Solutions will depend on the nature of the information and Ukhozi System Solutions undertakes that Personal Information will only be processed in the following circumstances:**

- The data subject or a competent person where the data subject is a child consents to the processing;
- Processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party;
- Processing complies with an obligation imposed by law on the responsible party;
- Processing protects a legitimate interest of the data subject;
- Processing is necessary for the proper performance of a public law duty by a public body; or
- Processing is necessary for pursuing the legitimate interests of the responsible party or of a third party to whom the information is supplied.

iv. **In general, personal information is processed by Ukhozi System Solutions for business administration purposes, including but not limited to:**

- Carrying out actions for the conclusion or performance of a contract;
- Complying with obligations imposed by law;
- Protecting the legitimate interests of the data subjects; or

- Pursuing the legitimate interests of Ukhozi System Solutions.

N.B. THE ABOVE LIST IS NON-EXHAUSTIVE.

6. CATEGORIES OF DATA SUBJECTS AND INFORMATION

- i. Ukhozi System Solutions processes personal information relating to the following categories of data subjects:**

CATEGORIES OF DATA SUBJECTS:

- Personnel / employees;
- Consultants;
- Contractors;
- Customers;
- Service providers;
- Suppliers;
- Other third parties with whom Ukhozi System Solutions conducts business.

N.B. THE ABOVE LIST IS NON-EXHAUSTIVE

- ii. Ukhozi System Solutions processes personal information relating to the following categories of Information:**

In respect of natural persons may include:

- Name,
- Identifying number (identity or passport number),
- Date of birth,
- Citizenship,
- Age,

- Gender,
- Race,
- Marital status,
- Language,
- Telephone number(s),
- Email address(es),
- Physical and postal addresses,
- Income tax number,
- Banking information,
- Disability information,
- Employment history,
- *Curriculum Vitae*,
- Education history,
- Remuneration and benefit information,
- Details related to employee performance and disciplinary procedures.

In respect of juristic persons may include:

- Name,
- Registration number,
- Tax information,
- Contact details,
- Physical and postal addresses,
- FICA documentation,
- BEE certificates,
- Payment details (including bank accounts),
- Invoices and contractual agreements.

N.B. THE ABOVE LISTS ARE NON-EXHAUSTIVE.

PURPOSE SPECIFICATION

7. COLLECTION FOR A SPECIFIC PURPOSE

Section 13 of the POPI Act states:-

- i. Personal information must be collected for a specific, explicitly defined and lawful purpose related to a function or activity of the responsible party. Steps must be taken in accordance with section 18(1) to ensure that the data subject is aware of the purpose of the collection of the information unless the provisions of section 18(4) are applicable.

- ii. **Ukhozi System Solutions undertakes that the Data Subjects Personal Information will only be used for the purpose for which it was collected and as agreed and this may include:**
 - Carrying out actions for the conclusion or performance of a contract
 - Providing products or services to data subjects/clients and to carry out the transactions requested;
 - Conducting credit reference searches or verification;
 - Confirming, verifying and updating data subjects details;
 - Conducting market or customer satisfaction research;
 - For audit and record keeping purposes;
 - In connection with legal proceedings;
 - Providing Ukhozi System Solutions services to data subjects/clients, to render the services requested and to maintain and constantly improve the relationship;
 - In connection with and to comply with legal and regulatory requirements or when it is otherwise allowed by law.

N.B. THE ABOVE LIST IS NON-EXHAUSTIVE

8. RETENTION OF PERSONAL INFORMATION

- i. Subject to certain provisions of the POPI Act, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, accordingly Ukhozi System Solutions is required to comply with various different legislative retention periods, which leads to different retention requirements. Ukhozi System Solutions have opted for the longest retention period required and will apply this to all our data. The personal information of Data Subjects will be kept for a period of 10 years in order for Ukhozi System Solutions to comply with all legal requirements.
- ii. If a data subject does not consent their personal information being retained for a period of 10 years, the data subject must notify the Information Officer in writing.

9. FURTHER PROCESSING LIMITATION

- i. Ukhozi System Solutions acknowledges the provisions of Section 15 of the POPI Act, in that further processing of personal information must be in accordance or compatible with the purpose for which it was collected in terms of section 13 and Ukhozi System Solutions undertakes that in the event that further processing is required, Ukhozi System Solutions will take account of whether the further processing is compatible with the purpose of collection, and will take account of :
 - The relationship between the purpose of the intended further processing and the purpose for which the information has been collected;
 - The nature of the information concerned;
 - The consequences of the intended further processing for the data subject;
 - The manner in which the information has been collected; and
 - Any contractual rights and obligations between the parties.

10. INFORMATION QUALITY

- i. Ukhozi System Solutions will take all reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.
- ii. In taking the steps referred above Ukhozi System Solutions will have regard to the purpose for which personal information is collected or further processed.

11. OPENNESS

- i. When collecting Personal Information Ukhozi System Solutions as the Responsible Party, must take reasonably practical steps to ensure that the data subject is aware of :
 - The information being collected.
 - The name and address of the Responsible Party.
 - The purpose for which the information is being collected.
 - Whether or not the supply of the information is voluntary or mandatory.
 - The consequences of failure to provide the information.
 - Any particular law authorising the requiring of the collection.
 - The right of access to and the right to rectify the information collected.
 - The fact that, where applicable, the Responsible Party intends to transfer the information to a Third country/International organization and the level of protection afforded by that third country/organization.
 - The right to object to the processing of the information.
 - The right to lodge a complaint with the Information Regulator.

- ii. This must be done prior to collecting Personal Information if the Personal Information is collected directly from the Data Subject, or in any other case as soon as is reasonably practical after collection.
- iii. It is not necessary to comply with the condition of openness if :
 - a. The data subject consents to the non-compliance.
 - b. Compliance will prejudice the legitimate interest of the data-subject.
- iv. Non-compliance is necessary :
 - a. To maintain law and order by any public body.
 - b. Comply with obligations imposed by law.
 - c. For the conduct of proceedings in any court or tribunal.
 - d. In the interest of national security.

12. SECURITY SAFEGUARDS / SAFEGUARDING CLIENT INFORMATION

Ukhozi System Solutions strives to take appropriate, reasonable technical and organisational measures to secure the integrity and confidentiality of personal information in its possession or under its control. It is a requirement of the POPI Act to adequately protect personal information and Ukhozi System Solutions will continuously review its security controls and processes to ensure that personal information is secure.

13. DATA SUBJECT PARTICIPATION

- i. A data subject may, in the prescribed manner, request a responsible party to:
 - a. Correct or delete Personal Information that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
 - b. Delete or destroy Personal Information that the Responsible Party is no longer authorized to retain.

- ii. As Responsible Party Ukhozi System Solutions will comply with the request or provide credible evidence in support of the information in dispute.
- iii. If reasonably possible, the responsible party must inform each person to whom the Personal Information has been disclosed of the change.

14. DIRECT MARKETING

- i. Direct Marketing means unsolicited electronic communication.
The processing of Personal Information for the purpose of direct marketing by any form of electronic communication is prohibited unless the data subject:
 - Has given consent; or
 - Is a customer of the responsible party and if:
 - The responsible party has obtained the contact details of the data subject in the context of the sale of a product or service;
 - It is for marketing the responsible parties own similar products or services; and
 - If the data subject has been given reasonable opportunity to object, free of charge, at the time the information was collected or on the occasion of each communication for the purpose of marketing.
 - As the Responsible Party, Ukhozi System Solutions may only approach a data subject whose consent is required and who has not previously withheld such consent, to gain consent and such content must be in the prescribed manner and form. Ukhozi System Solutions may only approach such data subject once.

15. TRANSBORDER INFORMATION FLOWS

- i. Personal information may not be transferred to a third party in a foreign country unless:
- The recipients personal information is subject to a law, binding corporate rules or agreement which provides an adequate level of protection that:
 - Effectively upholds substantially similar conditions for the lawful processing of Personal Information and
 - Includes substantially similar provisions relating to the further transfer of personal information to third parties in foreign countries.
 - Personal information may not be transferred to a third party in a foreign country unless :
 - The data subject consents to the transfer.
 - The transfer is necessary for the performance or conclusion of a contract between the data subject and responsible party.
 - The transfer is necessary for the performance or conclusion of a contract concluded in the interests of the data subject between the responsible party or;
 - The transfer is for the benefit of the data subject and
 - It is not reasonably practical to obtain consent and
 - If it were reasonably practical to obtain consent, the data subject would be likely to give it.

16. CATEGORIES OF RECIPIENTS TO WHOM THE PERSONAL INFORMATION MAY BE SUPPLIED

The categories of recipients to whom Ukhozi System Solutions may supply the personal information will depend on the nature of the information. In general, such categories of recipients would include:

- Service providers,
- Suppliers,
- Medical aid, pension or provident funds,
- Auditing and accounting bodies (internal and external)'
- Third parties with whom Ukhozi System Solutions have contracted for the retention of data,
- Relevant authorities, government departments, statutory bodies or regulators,
- A court, administrative or judicial forum, arbitration or statutory commission making a request in terms of the applicable laws or rules,
- Any party who requires the information in order to carrying out actions for the conclusion or performance of a contract

N.B. THE ABOVE LIST IS NON-EXHAUSTIVE

17. OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION BY A DATA

SUBJECT REGULATION 2 – POPI REGULATIONS

A data subject may at any time object to the processing of his / her / its personal information (as contemplated in Section 11(3)(a) of the POPI Act) in the prescribed form attached to this manual as Annexure 1, subject to exceptions contained in the POPI Act.

18. REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION

REGULATION 3 - POPI REGULATIONS

A Data Subject may request that his / her / its Personal Information be corrected or deleted (as contemplated in Section 24 of the POPI Act) in the prescribed form attached as Annexure 2.