POPIA and PAIA Information Manual

Contents

1. Introduction ... 3
2. Our contact details ... 3
3. The Information Regulator's contact details ... 3
4. Definitions ... 4
5. Why we hold personal information ... 4
6. How we protect the personal information that we hold ... 5
7. Our records that are publicly available ... 5
8. Records we hold to conduct our business ... 5
9. Records we hold to comply with the law ... 6
10. Records we hold to engage with our stakeholders ... 7
11. How you can request access to information we hold ... 7
12. How we will give you access to information that you requested ... 7
13. Fees to process your request for access to information ... 8
14. Grounds on which we may refuse access to information ... 8
15. Remedies available to you if we refuse access to information ... 8
16. Correction or Deletion of Personal Information ... 9
17. Availability of this Manual ... 9
18. Updates to this Manual ... 9

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1. Introduction

As a registered Non-Profit Company (NPC) carrying out business, the Drinks Federation of South Africa (DFSA) is a 'private body' as defined in and for the purposes of the Protection of Personal Information Act (POPIA) and the Promotion of Access to Information Act (PAIA). These two Acts facilitate citizens' right to access information held by the State or another person or organisation, as secured in section 32 of the Constitution of the Republic of South Africa. This legal framework determines the content of this manual.

We respect the privacy of your personal information and your right of access to information that we may hold and/or have access to. This manual will guide you (as a data subject in terms of POPIA or a requester of information in terms of PAIA) to exercise your rights in relation to information we hold that may be relevant to you. This manual is made available to you in terms of our POPIA and PAIA obligations to help you understand –

- the types of information we hold;
- how you may request access to such information (that may be relevant to you) from us; and/or
- how you may request that we correct, destroy, or delete your own information that we may hold.

The following publicly available sources contain information relevant to the content of this manual:

- The full text of POPIA (Protection of Personal Information Act)
- The full text of PAIA (Promotion of Access to Information Act)
- Guide on how to use PAIA (PAIA Guide, October 2021)
- Infographic on how to lodge a complaint with the Information Regulator (Infographic-2-of-2022)

This manual provides guidance on the records DF-SA holds, explains how individuals may access such records, and describes how DF-SA processes and protects personal information in compliance with applicable data protection legislation.

2. Our contact details

Our organization's details are:

Drinks Federation of South Africa NPC (DF-SA)
Information Officer: Angela Russell (Chief Executive Officer)
Email: info@drinksfederationsa.co.za
Telephone: +27 (0)11 110 7160
Address: Albury Office Park, 4 Magalieszicht Crescent, Dunkeld West, Johannesburg, South Africa

The Information Officer is duly registered with the Information Regulator in accordance with section 55 of POPIA.

3. The Information Regulator's contact details

The Information Regulator (South Africa) is an independent body established in terms of POPIA. It is subject only to the laws of South Africa, and it is accountable to the National Assembly. The Information Regulator is, amongst others, empowered to monitor and enforce compliance by public and private bodies with the provisions of POPIA and PAIA.

For further guidance, you may contact the Information Regulator directly – refer the following contact details:

Website	:	Information Regulator South Africa
Email	:	enquiries@inforegulator.org.za popiacomplaints@inforegulator.org.za paiacomplaints@inforegulator.org.za
Telephone	:	+27 010 023 5200
Toll Free	:	+27 080 001 7160
Address	:	Woodmead North Office Park, 54 Maxwell Drive, Woodmead, Johannesburg 2191

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4. Definitions

In this document the following terms have the meanings as indicated below:

Term/Acronym	Definition
Data Subject	The person to whom personal information relates
DFSA	Drinks Federation of South Africa
Information Officer	The person authorised to ensure protection of personal information and handle PAIA requests
NPC	Non-Profit Company
PAIA	Promotion of Access to Information Act 2 of 2000, as amended
POPIA	Protection of Personal Information Act 4 of 2013
Private body	A person, company, or other juristic entity that carries on trade, business, or profession

5. Why we hold personal information

POPIA ensures that personal information of individuals, groups of individuals and businesses is protected and gives effect to their constitutional right of privacy. We require personal information in order to –

- carry out our organisational purpose and functions;
- meet legal requirements; and
- communicate with our members and other stakeholders.

Therefore, we are a responsible party in terms of POPIA and will ensure that the following data protection principles are upheld relating to any personal information we hold:

- Lawfulness, fairness, transparency, and/or openness
- Purpose specification
- Secondary purpose limitation
- Processing limitations
- Data minimisation
- Storage limitation
- Accuracy, integrity and information quality
- Accountability
- Integrity, confidentiality and information security
- Information security policies and procedures

The purpose of our processing of our data subjects' personal information includes the following:

- To provide member benefits and services
- To identity verification, crime (including fraud and money laundering) detection
- To check credit references, track and recover debt
- To contract, conduct legal proceedings, and comply with legislation
- To conduct marketing, market research, and research as may be within our mandate
- To conduct our organisational and general administrative activities
- To communicate with our stakeholders
- To recruit and manage our employees

We only retain personal information for as long as necessary to fulfil the purpose for which it was collected, to comply with legal obligations, or in accordance with DF-SA's retention schedules. Thereafter, information is securely destroyed or de-identified.

In terms of POPIA, the data subject has the right to know how and why we collect and use personal information. The data subject may request access to personal information we hold, ask that it be corrected or deleted if it is inaccurate or no longer required, object to certain types of processing, and lodge a complaint with the Information Regulator. These rights may be exercised by contacting our Information Officer using the details set out in this Manual.

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6. How we protect the personal information that we hold

We process personal information of various categories of people and organisations for various purposes, as reflected in this manual, in accordance with section 11 of POPIA. Please refer to our website for our Privacy Policy or ask our information officer for a copy.

Our information security measures include the following:

- Confidentiality of information: We ensure that information is accessible only to those authorised to have access to it.
- Integrity of information: We safeguard the accuracy and completeness of the information we hold.
- Availability of information: We ensure that authorised users have access to information and information systems required to process such information, as and when needed
- Responding to breaches: We are insured against cybersecurity threats and attacks, and we have plans in place to respond appropriately to any cybersecurity incidents. These plans enable us to –
  - ✓ recover access to our information promptly;
  - ✓ secure our information against similar breaches in future; and
  - ✓ maintain our regulatory reporting about information as required by law (Section 22 of POPIA).

  Where required by POPIA, we will inform the affected data subject and the Information Regulator as soon as reasonably possible, and we will provide information to help the data subject take appropriate protective measures.

7. Our records that are publicly available

Some of our records are publicly available to you and can be accessed freely on BizPortal. These include the following:

- Our registered company name
- Our directors' and members' names
- Our memorandum of incorporation
- Other documents of incorporation

The following information is available publicly on our website at Drinks Federation SA and you do not need to request access to it from us:

- Who we are and what we do
- Research relevant to our industry
- Illicit Trade in the alcohol industry
- Our Code of Conduct and Complaints Contact Details
- Other resources related to our industry (such as industry initiatives, research, and legislation)

Other information that we make available regularly upon request to enable our business activities includes the following:

- Our banking details
- Our membership details and benefits
- Marketing brochures, media releases and publications

8. Records we hold to conduct our business

We hold the following subjects and categories of records in electronic or physical format, which we do not make automatically available. You may request access to them. These are records that most organisations have.

- Establishment records
- Business records
- Financial records
- Tax records
- Employee records
- Supplier and/or service provider records
- Member records
- Personal records
- Agreements and contracts
- Regulatory documents

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- Insurance records
- Intellectual property documents
- Immovable and movable property records
- Business correspondence
- Information relating to legal proceedings

9. Records we hold to comply with the law

We hold records that are required by law to hold and retain. These include, but are not limited to, the following:

- Anti-corruption and organised crime:
  - ✓ Prevention and Combating of Corrupt Activities Act 12 of 2004
  - ✓ Prevention of Organised Crime Act 121 of 1998
  - ✓ Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004
- Communications and IT
  - ✓ Electronic Communications Act 36 of 2005
  - ✓ Electronic Communications and Transactions Act 25 of 2002
  - ✓ Financial Intelligence Centre Act 38 of 2001
  - ✓ Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002
- Compliance and corporate governance
  - ✓ Companies Act 71 of 2008
  - ✓ Competition Act 89 of 1998
- Copyright, intellectual property and trademarks
  - ✓ Copyright Act 98 of 1978
  - ✓ Intellectual Property Laws Amendment Act 38 of 1997
  - ✓ Intellectual Property Laws Amendment Act 28 of 2013
  - ✓ Trade Marks Act 194 of 1993
- Finance
  - ✓ Income Tax Act 58 of 1962
  - ✓ Insolvency Act 24 of 1936
  - ✓ National Credit Act 34 of 2005
  - ✓ Tax Administration Act 28 of 2001
  - ✓ Value Added Tax Act 89 of 1991
- Human resources
  - ✓ Basic Conditions of Employment Act 75 of 1997
  - ✓ Broad-Based Black Economic Empowerment Act 53 of 2003
  - ✓ Compensation for Occupational Injuries and Diseases Act 130 of 1993
  - ✓ Employment Equity Act 55 of 1998
  - ✓ Labour Relations Act 66 of 1995
  - ✓ Occupational Health and Safety Act 85 of 1993
  - ✓ Protected Disclosures Act 26 of 2000
  - ✓ Skills Development Act 91 of 1998
  - ✓ Skills Development Levies Act 9 of 1999
  - ✓ Unemployment Insurance Act 63 of 2001
  - ✓ Unemployment Insurance Contributions Act 4 of 2002
- General
  - ✓ Consumer Protection Act 68 of 2008
  - ✓ Promotion of Access to Information Act 2 of 2000
  - ✓ Promotion of Administrative Justice Act 3 of 2000
  - ✓ Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
  - ✓ Protection of Personal Information Act 4 of 2013

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10. Records we hold to engage with our stakeholders

We have the following categories of data subjects for which we hold personal information (the list is not exhaustive):

Data Subject Categories	Personal Information that we may process
Members, Member Groupings	Name, identity number or registration number, bank details, contact details, credit records, financial details, and address
Employees, Directors	Name, identity number, bank details, contact details, criminal and credit records, financial details, home address, qualifications, gender, race, religion, children, spouse, family, beneficiaries, medical, employment history, curriculum vitae, biometric, trade union and other memberships
Contractors, Service Providers, Suppliers	Names, registration or identification number, VAT or tax numbers, contact details, addresses and bank details

Recipients or categories of recipients to whom personal information may be supplied (the list is not exhaustive):

Categories of Recipients	Category of Personal Information
Credit Bureaus, Fraud Databases, Banks, SA Police Services, Home Affairs	Names and identity number for identity verifications and criminal checks, bank details for bank verification, contact details, credit and payment history for credit information
Other Stakeholders	Names, loan repayment details and other information as contractually required

Transborder flow of personal information may happen when we share personal information of data subjects with third parties, service providers and investors in other countries, for purposes of client service, administration and processing. We ensure compliance with Section 72 of POPIA when sharing personal information across borders.

11. How you can request access to information we hold

The Information Regulator has published a PAIA Guide, which is available in all official South African Languages at no cost, and any person may request a copy of the guide by contacting the Information Regulator or accessing the guide from the Information Regulator's website.

Our Information Officer deals with all matters relating to POPIA and PAIA and ensures that we comply with our obligations in terms of these acts. To request access to a record, please complete this PAIA Form 2. Submit the completed form (together with the request fee) to our Information Officer's email address or our physical address using the details we provide. Please ensure that the completed form –

- has enough information for our Information Officer to identify you, the requested records, and the form of access you require;
- specifies your email address and/or postal address;
- describes the right that you seek to exercise or protect;
- explains why you need the requested record to exercise or protect that right;
- provides any other way you would like to be informed of our decision other than in writing; and
- provides proof of the capacity in which you are making the request if you are making it on behalf of someone else (we will decide whether this proof is satisfactory).

If you do not use the standard form to request information from us, we may –

- reject your request due to a lack of procedural compliance;
- refuse your request if you do not provide sufficient information; and/or
- delay your request for information.

12. How we will give you access to information that you requested

We will evaluate and consider all requests for information that we receive. If we approve your request, we will decide how to provide access to you – unless you have asked for access in a specific form. Publication of this manual does not give rise to any rights to access information records, except in terms of PAIA.

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13. Fees to process your request for access to information

The following fees apply to all requests for access to information:

- Request fees:
  When submitting your request, you must pay us a *request fee* as the law prescribes. You must pay us the prescribed fees before we give you access. You will receive a notice from our Information Officer after we receive your request, setting out the application procedure.
- Access fees
  If we grant the request, you must pay us a further *access fee*, which the law prescribes. This includes a fee for the time it takes us to handle your request (or if the time has exceeded the prescribed hours) to search for and prepare the record for disclosure. Our Information Officer will notify you if you need to pay a deposit for the access fee. The deposit may be up to one third of the prescribed access fee. The access fee will provide for:
  - ✓ The costs of making the record or transcribing the record to a format that can be made available to you.
  - ✓ Any postal fee that may be applicable to send the record to you.
  - ✓ The reasonable time we require to search for the record and prepare it for you.

  If, for any reason allowed by the law, you paid the fee and we refused your request, we will refund the amount to you. Until you have paid the fees, we may withhold the record you requested.

We will process your request (if it meets the requirements set out in this manual and the law) in line with the following time limits set out in the law:

- We will notify you in writing within 30 calendar days whether your request for access to information we hold has been approved or denied.
- If we need more time, we will inform you in writing within the first 30 days that we may require another 30 days to gather the information you requested.
- If we are unable to find the record that you requested or if such a record does not exist, we will notify you by way of an affidavit that it is not possible to give you access to such a record.

14. Grounds on which we may refuse access to information

We assess each request for information in the interest of transparency, on its own merits, and to give effect to the spirit of the law. We will refuse any request for information that is –

- clearly frivolous or vexatious;
- involve an unreasonable diversion of our resources;
- is not serving the public interest; and/or
- already otherwise available in the public domain.

In addition, we may have to refuse you access to certain records in terms of PAIA to protect the following:

- Someone else's privacy
- Someone else's confidential information
- The safety of individuals and property
- Our own commercial information
- Another organisation's commercial information
- Our own or someone else's research information
- Records privileged from production in legal proceedings

We will clearly communicate the reason for our refusal of your request for information in writing.

15. Remedies available to you if we refuse access to information

If we deny your request for access, you have the following options:

- If we appoint a Deputy Information Officer, who deals with your request, and you are unsatisfied with his/her refusal of your request, you may appeal to our Information Officer, who is our Chief Executive Officer. To do this, you may –
  - ✓ submit such an appeal within 180 days of receiving our Deputy Information Officer's refusal of your request; and

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- ✓ clearly indicate why you allege that our Deputy Information Officer's response was not in compliance with the law.
- If our Information Officer also refuses your request for access to information, you may (within 180 calendar days of us notifying you of our decision not to give you access to our information) –
  - ✓ apply to a court with the appropriate jurisdiction to review our decisions, which are the following:
    - the Constitutional Court
    - a High Court or another court of similar status; or
    - a Magistrates Court designated by the Minister of Justice and Constitutional Development; and/or
  - ✓ submit a complaint to the Information Regulator by completing PAIA Form 5.

16. Correction or Deletion of Personal Information

The data subject may request that we correct, update or delete personal information that is inaccurate, incomplete, misleading or no longer required for the purpose for which it was collected. We will consider and respond to such requests in a reasonable manner and in accordance with section 24 of POPIA.

17. Availability of this Manual

This manual is available at no cost in English in electronic format on our website and in physical format at the reception of our company offices.

18. Updates to this Manual

We will update this manual whenever anything changes in terms of –

- the law regulating access to information in the jurisdictions where we operate;
- the information we hold that may be relevant to outside stakeholder data subjects; and/or
- any other relevant reason that may require such an update.

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