

UNDERSTANDING DATA SUBJECT RIGHTS

The Protection of Personal Information Act (“POPIA”) gives effect to the constitutional right to privacy, by safeguarding data subjects’ personal information when processed by a responsible party, subject to justifiable limitations. POPIA provides data subjects with rights and remedies to protect their personal information from processing that is not in accordance with POPIA. A data subject is the person to whom the personal information relates and can be a natural person or a juristic person.

DATA SUBJECT RIGHTS IN TERMS OF POPIA

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RIGHT TO LAWFUL PROCESSING

A data subject has the right to have his/her/its personal information processed in accordance with the conditions for the lawful processing contained in POPIA.

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A data subject has the right to be notified that his/her/its personal information is being collected (including all relevant information contained in section 18 of POPIA).

RIGHT TO BE INFORMED

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RIGHT TO BE INFORMED OF A SUSPECTED OR ACTUAL DATA BREACH

A data subject has the right to be notified that his/her/its personal information has been accessed or acquired by an unauthorised person as provided for in terms of section 22 of POPIA.

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A data subject has the right to establish whether a responsible party holds personal information about him/her/it and to request access to that personal information as provided for in terms of section 23 of POPIA.

RIGHT TO REQUEST ACCESS

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RIGHT TO REQUEST CORRECTION OR DELETION

A data subject has the right to request, where necessary, the correction, destruction or deletion of his/her/its personal information as provided for in terms of section 24 of POPIA.

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RIGHT TO OBJECTION

A data subject has the right to object, on reasonable grounds relating to his/her/its particular situation to the processing of his/her/its personal information in certain circumstances provided for in terms of section 11 (3) (a) of POPIA.

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RIGHT TO OBJECT TO DIRECT MARKETING

A data subject has the right to object to the processing of his/her/its personal information at any time for purposes of direct marketing.

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RIGHT NOT TO RECEIVE DIRECT MARKETING

A data subject has the right not to have his/her/its personal information processed for purposes of direct marketing by means of unsolicited electronic communications except as referred to in section 69 (1) of POPIA.

A data subject has the right not to be subject, under certain circumstances, to a decision which is based solely on the basis of the automated processing of his/her/its personal information intended to provide a profile of such data subject as provided for in terms of section 71 of POPIA.

RIGHT NOT TO BE SUBJECT TO PROFILING & AUTOMATED DECISION MAKING

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RIGHT TO LODGE A COMPLAINT

A data subject has the right to submit a complaint to the Information Regulator regarding the alleged interference with the protection of the personal information or to submit a complaint to the Information Regulator as provided for in terms of section 74 of POPIA.

A data subject has the right to institute civil proceedings regarding the alleged interference with the protection of his/her/its personal information as provided for in section 99 of POPIA.

RIGHT TO INSTITUTE CIVIL PROCEEDINGS

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It is important for responsible parties to understand when a data subject right exists and to implement formal processes to give effect to such rights. It is also important to remember that not all privacy rights are absolute and that POPIA provides for the restriction of rights in certain instances.