WATER RESEARCH COMMISSION

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WATER RESEARCH COMMISISON
COMPLIANCE MANUAL
FOR THE IMPLEMENTATION OF THE
PROTECTION OF PERSONAL INFORMATION ACT OF 2013

CONTENTS:

A. Introduction

The Protection of Personal Information Act (POPI) is intended to balance 2 competing interests. These are:

1. Our individual constitutional rights to privacy (which requires our personal information to be protected); and
2. The needs of the WRC as a Public 3 A organisation to have access to and to process (work with) personal information for legitimate business purposes.

This Compliance Manual sets out the framework for the WRC's compliance with POPI.

Where reference is made to the "processing" of personal information, this will include any activity in which the information is worked with, from the time that the information is collected, up to the time that the information is destroyed, regardless of whether the information is worked with manually, or by automated systems.

1. Definitions

In this Compliance Manual, unless the context indicates otherwise-

"biometrics" means a technique of personal identification that is based on physical, physiological, or behavioral characterization including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition.

"child" means 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" means a code of conduct issued in terms of the Act and other applicable legislations.

"competent person" means any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child;

"consent" means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"data subject" means the person to whom personal information relates;

"de-identify", in relation to personal information of a data subject, means to delete any information 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;

and "**de-identified**" has a corresponding meaning;

"direct marketing" means to approach a data subject, either in person or by mail or electronic communication, for the direct or indirect purpose of-

(a) promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject; or

(b) requesting the data subject to make a donation of any kind for any reason;

"electronic communication" means 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" means a notice issued in terms of the Act;

"filing system" means any structured set of personal information, whether centralised, decentralised or dispersed on a functional or geographical basis, which is accessible according to specific criteria;

"information matching programme" means the comparison, whether manually or by means of any electronic or other device, of any document that contains personal information about 10 (ten) or more data subjects with one or more documents that contain personal information of 10 (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;

"information officer" means an information officer or deputy information officer as appointed an in accordance with the Act;

"Minister" means the Cabinet member responsible for the administration of justice;

"operator" means 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;

"person" means a natural person or a juristic person;

"personal information" means 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;

"prescribed" means prescribed by regulation or by a code of conduct;

"private body" means-

(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" means 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" means 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;

"Promotion of Access to Information Act" means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

"public record" means 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" means any recorded information-

(a) regardless of form or medium, including any of the following:

(i) Writing on any material;

(ii) 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;

(iii) label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;

(iv) book, map, plan, graph or drawing;

(v) 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" means the Information Regulator established in terms 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,

and **"re-identified"** has a corresponding meaning;

"Republic" means the Republic of South Africa;

"responsible party" means 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" means 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" means personal information as referred to in section 26 of the Act;

"this/the Act" includes any regulation or code of conduct made under this Act; and

"unique identifier" means any identifier that is assigned to a data subject and is used by the WRC for the purposes of its operations of that uniquely identifies that data subject.

B. WRC's Undertakings to Data Subjects

1. The WRC undertakes to follow POPI at all relevant times and to process personal information lawfully and reasonably, so as not to infringe unnecessarily on the privacy of its stakeholders.
2. The WRC undertakes to process information only for the purpose for which it is intended, to enable us to be operational and as agreed with WRC's stakeholders.
3. Whenever necessary, the WRC shall obtain consent to process personal information.
4. Where the WRC does not seek consent, the processing of stakeholders personal information shall follow the legal obligation placed upon the WRC and protect a legitimate interest that requires protection.
5. The WRC shall stop processing personal information if the required consent is withdrawn, or if a legitimate objection is raised.

6. The WRC shall collect personal information directly from the stakeholders whose information is required, unless:

6.1 the information is of public record;

6.2 the information collected is solely for the purpose of journalistic, literary or artistic expression to the extent that such purpose is needed as a matter for public interest; or

6.3 the stakeholder has consented to the collection of their personal information from another source; or

6.4 the information is being collected to comply with a legal obligation, including an obligation to SARS; or

6.5 the information collected has been declared as an exemption in terms of the Act.

7. The WRC shall advise its data subjects of the purpose of the collection of the personal information.

8. The WRC shall retain records of the personal information collected for the minimum period as required by law unless the data subject has furnished their consent or instructed the WRC to retain the records for a longer period.

9. The WRC shall destroy or delete records of personal information (so as to de-identify the data subject) as soon as reasonably possible after the time period for which it was entitled to hold the records has expired.

12. In addition, the WRC undertakes to ensure that the personal information which it collects and processes is complete, accurate, not misleading and up to date.

13. The WRC undertakes to retain the physical file and the electronic data related to the processing of the personal information.

14. Furthermore, the WRC undertakes to take special care with its stakeholder's bank account details, and the WRC is not entitled to obtain or disclose or procure the disclosure of such banking details unless its has the stakeholder's specific consent.

15. Acceptance of any mandate by the WRC, will be confirmed in writing to the applicable stakeholder, to advise them of the WRC's duty to them in terms of POPI.

C. Data Subject's Rights

1. In cases where the stakeholder's consent is required to process their personal information, this consent may be withdrawn at any time, without the need for the stakeholder to provide reasons for such withdrawal.

2. In cases where the WRC processes personal information without consent to protect a legitimate interest, to comply with the law or to pursue or protect the WRC's legitimate interests, the stakeholder has the right to object to such processing.

3. All stakeholders are entitled to lodge a complaint regarding the WRC's application of POPI with the WRC's Information Officer and the Information Regulator.

4. Stakeholders will be required to give written consent in any means as prescribed by the WRC, when the WRC accepts a mandate of any sort, to obtain the stakeholder's consent to process their personal information while the WRC does its work for them, unless this consent has been obtained within another document signed by the stakeholder.

D. Security Safeguards

1. In order to secure the integrity and confidentiality of the personal information in our possession, and to protect it against loss or damage or unauthorised access, the WRC must continue to implement the following security safeguards:

   1.1 The WRC's business premises where records are kept must remain protected by any reasonable means.

   1.2 Archived files must be stored behind locked doors and access control to these storage facilities must be implemented.

   1.3 All the user terminals on the WRC's internal computer network and its servers must be protected by passwords which must be changed in line with the WRC's IT Policy.

   1.4 The WRC's email infrastructure must comply with industry standard security safeguards, and meet the applicable legislation.

   1.5 Vulnerability assessments must be carried out on the WRC's digital infrastructure at least on an annual basis to identify weaknesses in its systems and to ensure that there is adequate security in place.

   1.6 The WRC must use recognised Firewalls to protect the data on its local servers, and must run antivirus protection to ensure that the systems are kept updated with the latest patches.

   1.7 Employees must be trained to carry out their duties in compliance with POPI, and this training must be ongoing.

   1.8 It must be a term of the contract with every employee that they must maintain full confidentiality in respect of all personal information.

   1.9 The processing of the personal information of WRC staff members must take place in accordance with the rules contained in the relevant labour legislation.

1.10 Employment contracts for employees whose duty it is to process personal information, must include an obligation on such employee to:-

(1) to maintain the WRC's security measures, and

(2) to notify their line manager immediately if there are reasonable grounds to believe that the personal information has been accessed or acquired by any unauthorised person.

1.11 The digital work profiles and privileges of employees who have left the WRC's employ must be properly terminated and destroyed in line with the Act.

1.12 The personal information of stakeholders and employees must be destroyed timeously in a manner that de-identifies the person.

2. The security safeguards must be verified on a regular basis to ensure effective implementation, and these safeguards must be continually updated and recorded in branch operational risk registers in response to new risks or deficiencies.

E. Security Breaches

1. Should it appear that the personal information of a stakeholder/s has been accessed or acquired by an unauthorised person, The WRC must notify the Information Regulator and the relevant stakeholder/s, unless the WRC are no longer able to identify the stakeholder/s. The notification must take place as soon as reasonably possible.

2. Such notification shall be given to the Information Regulator first as it is possible that they, or another public body, might require the notification to the stakeholder/s be delayed.

3. The notification to the stakeholder/s shall be communicated in writing in one of the following ways, to ensure that the notification reaches the stakeholder/s:

3.1 by mail to the stakeholder/s last known physical or postal address;

3.2 by email to the stakeholder/s last known email address;

3.3 by publication on the WRC's website or in the news media; or

3.4 as directed by the Information Regulator.

4 The notification to the stakeholder/s shall give sufficient information to enable the stakeholder/s to protect themselves against the potential consequences of the security breach, and shall include:

4.1 a description of the possible consequences of the breach;

4.2 details of the measures that the WRC intend to take or have taken to address the breach;

4.3 the recommendation of what the stakeholder/s could do to mitigate the adverse effects of the breach; and

4.4 if known, the identity of the person who may have accessed, or acquired the personal information.

F. Requesting of Record (External Stakeholders including former employees)

1. On production of proof of identity, any person is entitled to request that the WRC confirm, free of charge, whether or not it holds any personal information about that person in its records.

2. If the WRC holds such personal information, on request, and upon payment of a fee R500 (five hundred rand) plus VAT , the WRC shall provide the person with the record, or a description of the personal information, including information about the identity of all third parties or categories of third parties who have or have had access to the information. The WRC shall do this within a reasonable period of time, in a reasonable manner and in an understandable form.

3. A stakeholder requesting such personal information must be advised of their right to request to have any errors recorded regarding the personal information, be corrected. Such request shall be made on the prescribed application form as indicated to the stakeholder by the WRC.

4. Should any applicable legislation prescribe, the WRC will have the right to refuse to disclose the record containing the personal information.

5. In all cases where the disclosure of a record will entail the disclosure of information that is additional to the personal information of the person requesting the record, the written consent of the Information Officer (or his delegate) will be required, and that person shall make their decision having regard to the provisions of Chapter 4 of Part 3 of the Promotion of Access to Information Act.

6. If a request for personal information is made and part of the requested information may, or must be refused, every other part must still be disclosed.

G. The Correction of Personal Information

1. A stakeholder is entitled to require the WRC to correct or delete personal information that the WRC has, which is inaccurate, irrelevant, excessive, out of date, incomplete, misleading, or which has been obtained unlawfully.

2. A stakeholder is also entitled to require the WRC to destroy or delete records of personal information about the stakeholder that the WRC is no longer authorised to retain.

3. Any such request must be made in writing and sent to the Information Officer.

4. Upon receipt of such a lawful request, the WRC shall comply as soon as reasonably practicable.

5. In the event that, a dispute arises regarding the stakeholder's rights to have information corrected, and in the event that the stakeholder so requires, the WRC shall attach to the information, in a way that it will always be read with the information, an indication that the correction of the information has been requested but has not been made.

6. The WRC shall notify the stakeholder who has made a request for their personal information to be corrected or deleted, what action the WRC has taken as a result of such a request.

H. Special Personal Information

1. Special rules apply to the collection and use of information relating to a person's religious or philosophical beliefs, their race or ethnic origin, their trade union membership, their political persuasion, their health or sex life, their biometric information, or their criminal behaviour.

2. The WRC shall not process any information categorized as Special Personal Information without the stakeholder's consent, or where it is necessary for the establishment, exercise or defense of a right or an obligation in law.

3. Having regard to the nature of the WRC's mandated work, it is unlikely that it will ever have the need to process Special Personal Information. However,, should it be necessary, the guidance of the Information Officer, or their deputy/delegate, as well as the Information Regulator shall be sought before such processing in conducted.

I. The Processing of Persona Information of Children

1. The WRC shall only process the personal information of a child if it has the consent of the child's parent or legal guardian. No processing of such information shall be done until such time as consent has been lawfully obtained.

J. Information Officer

1. The WRC's Information Officer is Dhesigen Naidoo who is the Chief Executive Officer, and Ms Reshmili Lutchman, Group Executive: Corporate Services as the deputy information Officer as nominated and authorised by the Chief Executive Officer/Managing Director in writing. The Information Officer's responsibilities include:

   1.1 Ensuring compliance with POPI.

1.2 Dealing with requests which are received in terms of POPI.

1.3 Working with the Information Regulator in relation to investigations.

2. The WRC Information Officer may designate in writing as many Deputy Information Officers as are necessary to perform the tasks mentioned in paragraph 1 above. Such designation shall be done in writing.

3. Our Information Officer and our Deputy Information Officers must register themselves with the Information Regulator prior to taking up their duties.

4. In carrying out their duties, the Information Officer must ensure that:

4.1 this Compliance Manual is implemented;

4.2 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;

4.3 that this Compliance Manual is developed, monitored, maintained and made available;

4.4 that internal measures are developed together with adequate systems to process requests for information or access to information;

4.5 that internal awareness sessions are conducted regarding the provisions of POPI, the Regulations, codes of conduct or information obtained from the Information Regulator; and

4.6 that copies of this Compliance Manual are provided to persons at their request, hard copies to be provided upon payment of a fee (to be determined by the Information Regulator).

5. Guidance notes on Information Officers have been published by the Information Regulator (on 1 April 2021) and the WRC's Information Officer and Deputy Information Officer shall familiarize themselves with the content of these notes.

K. Circumstances Requiring Prior Authorisation

1. In the following circumstances, the WRC shall require prior authorisation from the Information Regulator before processing any personal information:

1.1 In the event that the WRC intends to utilise any unique identifiers of stakeholder/s (account numbers, file numbers or other numbers or codes allocated to stakeholder/s for the purposes of identifying them in the WRC's business) for any purpose other than the original intention, or to link the information with information held by others;

1.2 if the WRC is processing information on criminal behaviour or unlawful or objectionable conduct;

1.3 if the WRC is processing information for the purposes of credit reporting (this will be important if the WRC is making reports to assist with tenant profiling, for example, to TPN or ITC).

1.4 if the WRC is transferring Special Personal Information or the personal information of children to a third party in a foreign country, that does not provide adequate protection of that personal information.

2. The Information Regulator shall be notified of the WRC's intention to process any personal information as set out in paragraph 1.1 of Clause K above prior to any processing taking place and the WRC shall not commence with such processing until the Information Regulator has decided in the WRC's favour. The Information Regulator has 4 (four) weeks to make a decision but may decide that a more detailed investigation is required. In this event the decision must be made in a period as indicated by the Information Regulator, which must not exceed 13 (thirteen) weeks. If the Information Regulator does not make a decision within the stipulated time periods, the WRC may assume that the decision is in its favour and commence processing the information.

L. Direct Marketing

1. The WRC shall only carry out direct marketing (using any form of electronic communication) to stakeholder/s if:

1.1 the stakeholder/s were given an opportunity to object to receiving direct marketing material by electronic communication at the time that their personal information was collected; and

1.2 the stakeholder/s did not object then or at any time after receiving any such direct marketing communications from the WRC.

2. The WRC shall only approach stakeholder/s using their personal information, if the WRC has obtained the personal information in the context of providing services associated with the contractual business between the WRC and stakeholder/s .

3. The WRC shall only carry out direct marketing (using any form of electronic communication) to other people if it has received consent to do so.

4. The WRC shall approach a person to ask for their consent to receive direct marketing material only once, and the WRC may not do so if such person has previously refused their consent.

5. Consent to received direct marketing must be confirmed in writing before same is actioned.

6. All direct marketing communications must disclose the WRC's identity and contain an address or other contact details to which the stakeholder/s may send a request that the communications cease.

M. Transborder Information Flows

1. The WRC shall not transfer a stakeholder/s personal information to a third party in a foreign country, unless:

   1.1 the stakeholder/s consents to this, or requests it; or

   1.2 such third party is subject to a law, binding corporate rules or a binding agreement which protects the personal information in a manner similar to POPI, and such third party is governed by similar rules which prohibit the onward transfer of the personal information to a third party in another country; or

   1.3 the transfer of the personal information is required for the performance of the contract between the WRC and the stakeholder/s; or

   1.4 the transfer is necessary for the conclusion or performance of a contract for the benefit of the stakeholder/s entered into between the WRC and the third party; or

   1.5 the transfer of the personal information is for the benefit of the stakeholder/s and it is not reasonably possible to obtain their consent and that if it were possible the stakeholder/s would be likely to give such consent.

N. Offences and Penalties

1. POPI provides for serious penalties for the contravention of its terms. For minor offences a guilty party can receive a fine or be imprisoned for up to 12(twelve) months. For serious offences the period of imprisonment rises to a maximum of 10 (ten) years. Administrative fines for the WRC can reach a maximum of R10 million (ten million rand).

2. Contravention of this Compliance Manual and associated WRC Policies or Standard Operating Procedures will lead to disciplinary action.

.3. It is therefore imperative that the WRC comply strictly with the terms of this Compliance Manual and protect all stakeholder/s personal information.

O. Review of the Compliance Manual

1.This Compliance Manual policy will be reviewed annually within the WRC's annual business cycle or as and when the need arises.

P. Compliance Manual Implementation Plan

1.The Compliance Manual will be effective on the date of final approval by the highest authority.

SIGNATORIES

Recommended: **Executive Manager: Corporate Services** **Policy Custodian** **Date:**	
Approved and Recommended to the Board Sub-Committee: **Chief Executive Officer (representing EXCO)** **Accounting Officer** **Date:**	
Approved & Recommended o Board: **Chairperson of Board Sub-Committee (representing Board Sub-Committee)** **Date:**	
Approved by **Chairperson of the Board** **Board Representative** **Date:**	