



Companies and Intellectual
Property Commission
a member of **the dtic** group

THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION (CIPC) PAIA AND POPIA MANUAL

This manual was prepared in accordance with section 14 of the Promotion of Access to Information Act 2 of 2000 and to address requirements of the Protection of Personal Information Act 4 of 2013.

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Call Centre: 086 100 2472

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1. THE PROMOTION OF ACCESS TO INFORMATION ACT (hereinafter referred to as PAIA) ACT 2 OF 2000

PAIA was passed by parliament in 2000 and came into force in 2001. This legislation gives effect to the right of access to information held by public and private bodies. The access to information held by the State is a constitutional right, enshrined in section 32 (1)(b) of the Constitution of the Republic of South Africa. However, the right of access to information held by a public or private body may be justifiably and reasonably limited, in a manner that balances the right to information with other rights that may exist in terms of legislation.

PAIA requires the CIPC to compile a manual that provides information on the categories of records it holds, as well as the process for requesting access to the information. This Manual is compiled in terms of section 14 of PAIA in order to comply with the requirement and further detail the process to be followed when a request for access to information is made to CIPC.

2. DESCRIPTION OF PUBLIC BODY - CIPC

Establishment and mandate:

CIPC was established as a juristic person to function as an organ of state within the public administration, but as an institution outside the public service, as described in Section 185(1) of the Companies Act, 71 of 2008.

The Commission's objectives, which also embodies its mandate, are detailed in Section 186 of the Companies Act, 71 of 2008 and include, but are not limited to:

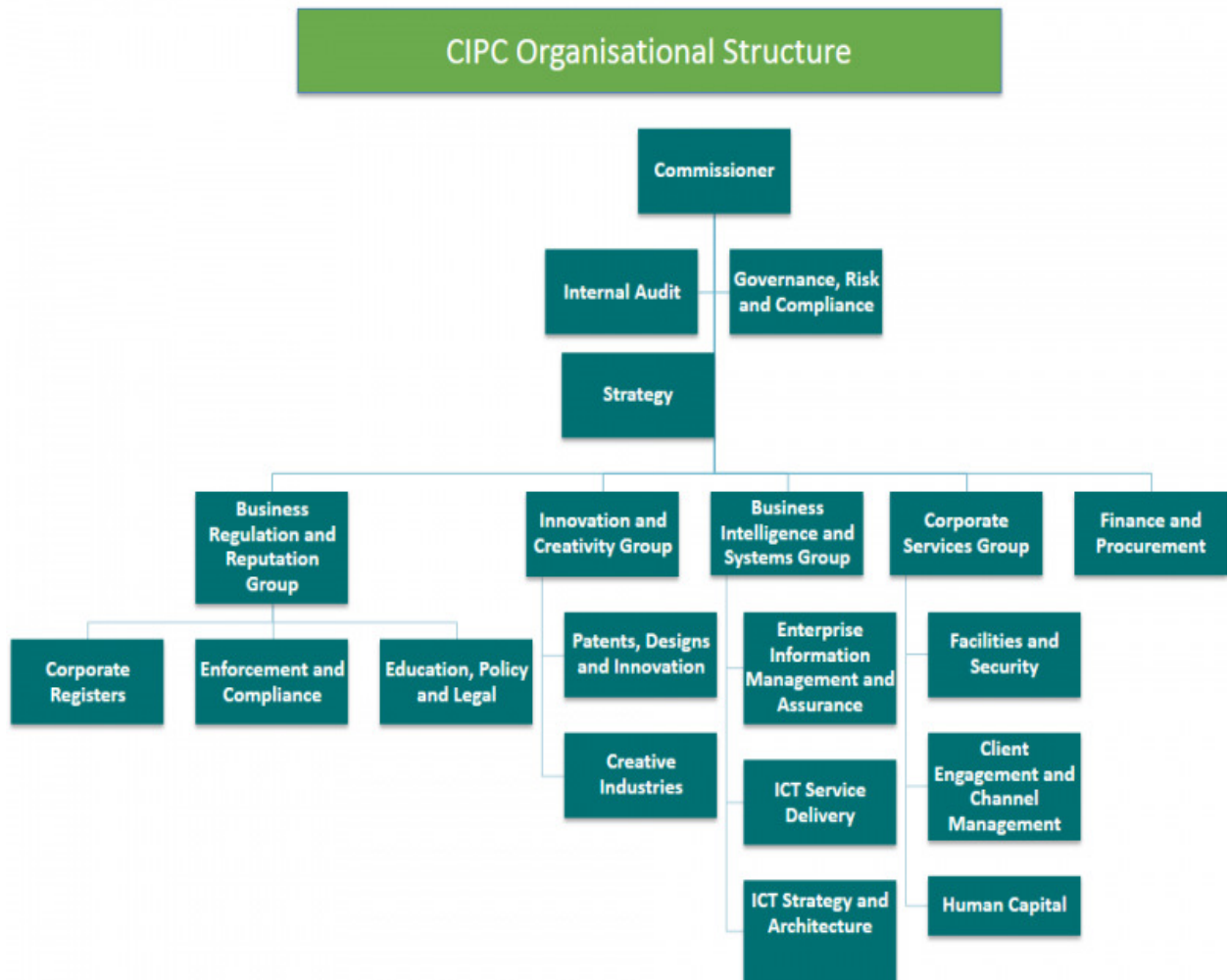
- The effective registration and maintenance of companies, co-operatives, and intellectual property rights;
- Making the information contained in these registers available to the public;
- The promotion of education and awareness of company and intellectual property laws;
- To ensure compliance with the Companies Act and other applicable legislation; and
- To see to the enforcement of applicable legislation.

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Structure:





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Functions of the CIPC: (Detailed in Section 187 of the Companies Act, 71 of 2008)

- Registration of Companies, Co-operatives and Intellectual Property Rights (trademarks, patents, designs and copyright) and maintenance thereof.
- Disclosure of the information on its business registers efficiently and effectively.
- Promotion of education and awareness of Company and Intellectual Property Law.
- Promotion of compliance with relevant legislation.
- Efficient and effective enforcement of the Companies Act.
- Monitoring compliance with and contraventions of financial reporting standards, and making recommendations thereto to Financial Reporting Standards Council (FRSC)
- Licensing of Business Rescue Practitioners.
- Report, research and advise the Minister on matters of national policy relating to Company and Intellectual Property law.
- Perform any related functions assigned to it by legislation, etc.

The CIPC's mission and vision:

To be a reputable world class regulator of business entities and intellectual property rights and in doing so making it as easy and attractive as possible to do business in South Africa.

1. CONTACT DETAILS

Public Body	Companies and Intellectual Property Commission (CIPC)
Information Officer	Adv. Rory Voller Commissioner
Physical Address	The dtic Campus, (Block F – Entfutfukweni), 77 Meintjies Street, Sunnyside , Pretoria P.O Box 429, Pretoria
Telephone Number	012 394 9973
Fax Number	012 394 1015
Call Centre	086 100 2472
E-mail address	RVoller@cipc.co.za
Website	www.cipc.co.za

The Information Officer, has duly designated the person below as Deputy Information Officer to render CIPC as accessible as reasonably possible for the requesters of its records in terms of PAIA:

The dtic Campus (Block F - Entfutfukweni), 77 Meintjies Street, Sunnyside, Pretoria | P O Box 429, Pretoria, 0001

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Email: LSteenkamp@cipc.co.za Website: www.cipc.co.za

Public Body	Companies and Intellectual Property Commission (CIPC)
Deputy Information Officer	Mrs. Lucinda Steenkamp Snr Legal Advisor: Corporate legal
Physical Address	The dtic Campus, (Block F – Entfutfukweni), 77 Meintjies Street, Sunnyside , Pretoria
Postal Address	P.O Box 429, Pretoria
Call Centre	086 100 2472
E-mail address	paia@cipc.co.za popia@cipc.co.za
Website	www.cipc.co.za

2. SECTION 10 GUIDE: HOW TO USE PAIA

The South African Human Rights Commission (SAHRC) was established in terms of section 18(b) of the Constitution of South Africa 1996. It is the national institution established to entrench constitutional democracy and appointed to administer PAIA.

The Human Rights Commission must, in terms of Section 10 of PAIA, compile a guide containing such information which may be required by a person who wishes to exercise any right contemplated in PAIA.

Should you require further information regarding PAIA and / or wish to contact the SAHRC please visit their website at <http://www.sahrc.org.za>.

The Office of the Information Regulator moved from the South African Human Rights Commission to the Department of Justice with the inception of the Protection of Personal Information Act ("POPIA"), 4 of 2013 – www.inforegulator.org.za

The Information Regulator (South Africa) is an independent body established in terms of section 39 of POPIA. The Information Regulator is, among others, empowered to monitor and enforce compliance by public and private bodies with the provisions of the Promotion of Access to Information Act, 2000, and the Protection of Personal Information Act, 2013.

3. HOW TO REQUEST ACCESS TO A RECORD HELD BY THE CIPC I.T.O PAIA

1. The person requesting access to information (*Requester*) must use the prescribed form (Form A below) to make the request.
2. The request must be addressed to the Deputy Information Officer, using the contact details as indicated herein and submit the application via e-mail.
3. The requester must provide sufficient information on the request form to enable the Deputy Information officer to identify the information requested.
4. The Requester should choose the preferred form of access (view, obtain a copy, paper or electronic format etc.).



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5. Records held by the public body can only be provided in the language in which the record is held.
6. In the event of a Requester making a request on behalf of another person, the Requester must submit proof of the capacity in which the request is made.
7. Where access to information has been granted, the Requester must pay an access fee for the reproduction, location and preparation of copies or transcripts of the information and for time reasonably required in excess of the prescribed hours estimated in the Act for these purposes, in order to disclose the information.
8. The Deputy Information Officer will inform the Requester of his/her decision to grant or refuse access to the information requested within thirty (30) days following receipt of the request. In the event that a request for information involves a third party, the Deputy Information Officer may extend the thirty day period mentioned above, by up to, but not exceeding a further thirty (30) days in order to give a third party the chance to make representations
9. Forms to request information: <http://www.cipc.co.za/index.php/Access/companies/>.

Records held by CIPC:

The CIPC is tasked with establishing and maintaining a companies' register as well as any other register contemplated in the Companies Act, or in any other legislation that assigned a registry function to the Commission. Additional to maintaining such registers, the Commission must make the information available to the public and other organs of state, as effectively and efficiently as possible.

For more details regarding the categories of records held by CIPC, please visit the CIPC website: www.cipc.co.za

4. THE CIPC IS A PUBLIC BODY AS DEFINED IN SECTION 1(b)(ii) of PAIA

Section 14(e) and (f) of PAIA provides for a public body to provide information regarding the categories of records of the body, which are available to the public without a person having to request access in terms of PAIA.

Most of the information held by CIPC is available to the public as per the Companies Act, 71 of 2008 and the process for requesting same is detailed on the CIPC website.

Access to CIPC services:

Visit our website: www.cipc.co.za

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5. HOW TO PARTICIPATE IN OR INFLUENCE-

i. The formulation of policy, the exercise of powers or performance of duties

- Public Workshops;
- Stakeholder forums workshops;
- Discussions/workshops with government departments;
- Webinars;
- Publications on the CIPC website; and
- Collaboration endeavors.

6. REMEDIES

A requester may apply to court for a review of a decision of the CIPC if they are not satisfied with the decision thereof as contemplated in sections 78 – 82 of PAIA.

7. PROTECTION OF PERSONAL INFORMATION THAT IS PROCESSED BY CIPC

Minimum conditions for lawful processing of personal information:

POPIA provides for the minimum conditions for lawful processing of personal information by a responsible party. These conditions may not be derogated from unless specific exclusions apply as outlined in POPIA.

CIPC (as a public body) needs to process personal information relating to both individual and juristic persons in order to carry out its business and organisational functions. The manner in which this information is processed and the purpose for which it is processed is determined by the Companies Act, 71 of 2008 and other legislation referred to in the Companies Act. The CIPC is accordingly a responsible party for the purposes of POPIA and will ensure that the personal information of a data subjects:

- a) is processed lawfully, fairly and transparently. This includes the provision of appropriate information to data subjects when their data is collected by CIPC, in the form of privacy policies or data collection notices and/or general consent. The CIPC also have a legal basis (for example, legislatively) to process personal information;
- b) is processed only for the purposes for which it was collected with specific consideration of the exemptions highlighted in section 38 of POPIA;
- c) will not be processed for a secondary purpose unless that processing is compatible with the original purpose, or the public body is exempted in terms of section 38 of POPIA;
- d) is adequate, relevant and not excessive for the purposes for which it was collected;
- e) is accurate and kept up to date;
- f) will not be kept for longer than necessary;
- g) is processed in accordance with integrity and confidentiality principles; this includes physical and organisational measures to ensure that personal information, in both physical and electronic form, are subject to an appropriate level of security when stored, used and disclosed by CIPC, in order to protect against access and acquisition by unauthorised persons and accidental loss, destruction or damage;
- h) is processed in accordance with the rights of Data Subjects, where applicable.

Purpose of the processing of personal information by the CIPC:

As outlined above, personal information may only be processed for a specific purpose. The purpose of POPIA as it pertains to the CIPC is to -



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“(a) give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party, subject to justifiable limitations that are aimed at-

(i) balancing the right to privacy against other rights, particularly the right of access to information;”

POPIA must be interpreted in such a manner that –

“does not prevent any public or private body from exercising or performing its powers, duties and function in terms of the law as far as such powers, duties and functions relate to the processing of personal information and such processing is in accordance with this Act or any other legislation”

Categories of data subjects and personal information:

As per section 1 of POPIA, a data subject may either be a natural or a juristic person. The various categories of data subjects that the CIPC processes personal information on and the types of personal information relating thereto is listed below:

- a) Clients & service providers:** Individual data subjects (directors, members, intellectual property right owners, etc.) as well as juristic persons (companies, close corporations and co-operatives).
- Performing duties in terms of any legislation;
 - Operate and manage clients' accounts (customer accounts – financial information);
 - Payment of invoices (service providers);
 - Updating and verifying information;
 - Communicating with customers (including direct marketing) by e-mail, sms, letter, telephone, CIPC website, processing platforms, government gazette or any other way that the CIPC need to communicate effectively and efficiently;
 - Carrying our market research, business and statistical analysis;
 - Any other administrative and operational purposes, including testing of systems;
 - Compliance with CIPC Regulatory requirements and other obligations;
 - Purposes relating to the agreement or business relationship or possible agreement or business relationships between the parties;
 - Any other reasonably required purpose relating to the CIPC and its functions and objectives.

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b) Employees: Individual data subjects employed with the CIPC.

- Verification of applicant employees during recruitment processes;
- General matters relating to employees;
- Employment history & references;
- Employment contracts;
- Pension and Medical Aid (beneficiary & dependent information);
- Payroll (banking and financial details);
- Disciplinary action;
- Training;
- Leave records;
- Performance evaluations;
- Any other reasonably required purpose relating to the employment or possible employment relationship.

Recipients of personal information: (access to personal information held by CIPC)

- Any payment system that the CIPC make use of;
- Regulatory or governmental (organs of state) authorities or ombudsmen, or other authorities, including tax authorities, where the CIPC has a duty to share information;
- Third parties to whom payments are made on behalf of CIPC employees;
- Financial institutions from whom payments are received on behalf of data subjects; (deposits into customer accounts);
- Any other operator not specified;
- Employees, contractors and temporary staff;
- Any member of the public upon application in the prescribed way and with payment of the prescribed fees – applicable specific to the information on any of the CIPC registers.

Cross-border flow of personal information:

Section 72 of POPIA provides that personal information may only be transferred out of the Republic of South Africa if:

- a) the recipient country must be subject to a law similar to POPIA with regards to the protection of personal information; or
- b) the data subject consents to the transfer of their personal information; or
- c) transfer is necessary for the performance of a contractual obligation between the data subject and the responsible party;
- d) transfer is necessary for the performance of a contractual obligation between the responsible party and a third party in the interests of the data subject; or
- e) the transfer is for the benefit of the data subject, but it is impractical to obtain consent from the data subject.



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Description of information security measures implemented by the CIPC:

The CIPC undertakes to maintain the information security measures outlined below, in order to accomplish the objectives as outlined in the Companies Act and Protection of Personal Information Act. No specific details of information security measures are provided in this manual and the information provided below is to be interpreted as examples of how to achieve an adequate information security level. The CIPC may use alternative measures and adapt to technological security developments as needed.

a) Access control:

The CIPC shall implement suitable and reasonable measures in order to prevent unauthorized persons from gaining access to the data or information contained on the CIPC registers, albeit physical or electronic access.

b) Data control:

The CIPC undertakes to implement suitable measures to prevent the unauthorized manipulation of information or data, including copying, alteration, deletion of information on the CIPC registers or internal databases, containing personal information of CIPC employees, data subjects or customers.

c) Data memory control:

Suitable measures are in place and will be maintained in order to prevent unauthorized input into data memory and the unauthorized access, alteration or deletion of stored data (history of data subjects).

d) User control:

Users of CIPC systems and databases are strictly controlled and measured – use access control, in line with the scope and to the extent covered by access permissions and authorizations. Measures to prevent data processing systems from being used by unauthorized persons are in place and maintained and monitored continuously.

e) Security safeguards:

Reasonable and identifiable risks to personal information in or under the control of the CIPC is identified and monitored on a continual basis and the relevant security safeguards are in place, such as firewalls, cyber security infrastructure and more.

Objection to the processing of Personal Information by a data subject:

Section 11(3) of POPIA provides that a data subject may, at any time object to the processing of his/her/its personal information. However, in terms of section 38(1) of POPIA, it is clear that personal information that is processed for the purpose of discharging a relevant function, is exempt from section 11(3) and (4). Data subjects cannot, thus object to the processing of their/its personal information by the CIPC.

Any queries, applications or concerns in terms of PAIA, may be directed to paia@cipc.co.za.

Similarly, any queries, applications or concerns in terms of POPIA, may be directed to popia@cipc.co.za.