



Companies and Intellectual
Property Commission
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THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION (CIPC) PAIA MANUAL

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

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CIPC



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CIPC Companies and Intellectual
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1. LIST OF ACRONYMS AND ABBREVIATIONS

1.1 “CIPC”	Companies and Intellectual Property Commission
1.2 “IO”	Information Officer
1.3 “DIO”	Deputy Information Officer
1.4 “Minister”	Minister of Justice and Correctional Services
1.5 “IR”	Information Regulator
1.6 “PAIA”	Promotion of Access to Information Act, 2 of 2000
1.7 “POPIA”	Protection of Personal Information Act, 4 of 2013
1.8 “Relevant authority”	Minister of the DTIC
1.9 “DTIC”	Department of Trade, Industry and Competition

2. PURPOSE OF THE PAIA MANUAL

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.

This PAIA Manual is useful for the public to-

- 2.1 check the nature of the records which may already be available at the CIPC, without the need for submitting a formal PAIA request;
- 2.2 have an understanding of how to make a request for access to a record of the CIPC;
- 2.3 access all the relevant contact details of the persons who will assist the public with the records they intent to access;
- 2.4 know all the remedies available from the CIPC regarding a request for access to the records, before approaching the Regulator or Courts;

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- 2.5 the description of the services available to members of the public from the CIPC, and how to gain access to those services;
- 2.6 a description of the guide on how to use PAIA, as updated by the Regulator and how to obtain access to it;
- 2.7 if the body will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;
- 2.8 know if the CIPC has planned to transfer or process personal information outside the Republic of South Africa and the recipients or categories of recipients to whom the personal information may be supplied; and
- 2.9 know whether the CIPC has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed.

3. 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:

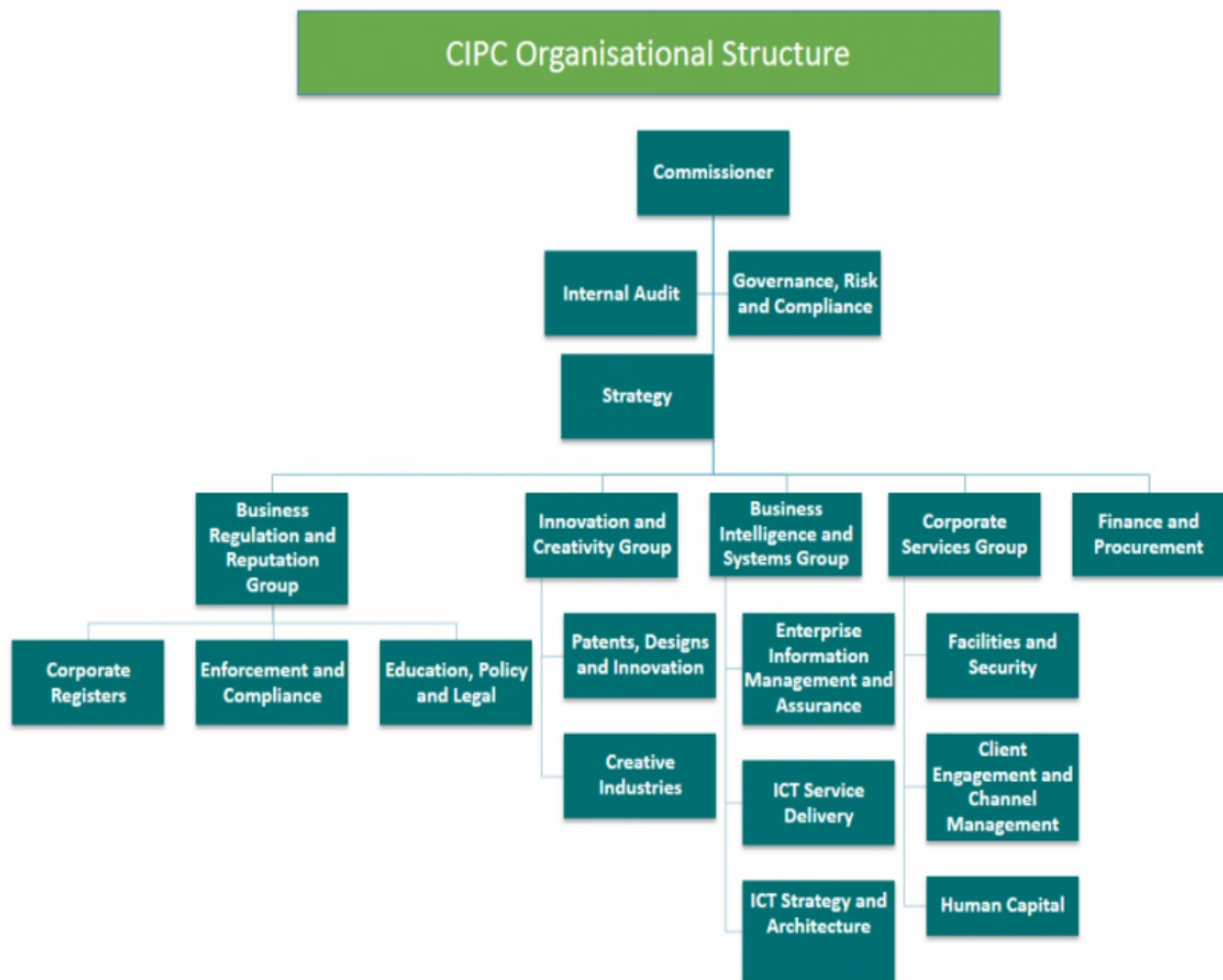
- The effective registration of companies, co-operatives, and intellectual property rights;
- Maintenance of accurate, up-to-date and relevant information concerning companies, other juristic persons and intellectual property rights; and making the information contained in these registers available to the public and other organs of state;
- 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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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 and invest in South Africa.

4. KEY CONTACT DETAILS OF THE CIPC

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	paia@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:

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

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5. SECTION 10 GUIDE: HOW TO USE PAIA

The Information Regulator has, in terms of section 10(1) of PAIA compiled, updated and made available the Guide on how to use PAIA in an easily comprehensible form and manner, as may be reasonably required by a person who wishes to exercise any right contemplated in PAIA and POPIA. This guide is available in each of the official languages.

5.1. Content of the Guide:

5.1.1 The aforementioned Guide contains the description of –

- (a) the objects of PAIA and POPIA;
- (b) the contact details and address of the Information Officer of every public body; and
- (c) the contact details and address of every Deputy Information Officer, so designated¹, of every public body.

5.1.2 Manner and form of a request –

- (a) for access to a record of a public body contemplated in section 11²; and
- (b) for access to a record of a private body contemplated in section 50³;

5.1.3 A description of the assistance available from the Information Officer of a public body in terms of PAIA and POPIA;

5.1.4 A description of the assistance available from the Regulator in terms of PAIA and POPIA;

5.1.5 All remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-

- (a) an internal appeal;
- (b) a complaint to the Regulator;
- (c) an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;

5.1.6 A description of the provisions of sections 14⁴ and 51⁵ requiring a public body and private

¹ Section 17(1) of PAIA – For the purposes of PAIA, each public body must, designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requestors of its records.

² Section 11(1) of PAIA- A requester must be given access to a record of a public body if that requester complies with all the procedural requirements in PAIA relating to a request for access to that record; and access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

³ Section 50(1) of PAIA- A requester must be given access to any record of a private body if a) that record is required for the exercise or protection of any rights; b) that person complies with the procedural requirements in PAIA relating to a request for access to that record; and c) access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

⁴ Section 14(1) of PAIA- The information officer of a public body must, in at least three official languages, make available a manual containing information listed in paragraph 3 above.

⁵ Section 51(1) of PAIA- The head of a private body must make available a manual containing the description of the information listed in paragraph 3 above.

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body, respectively, to compile a manual, and how to obtain access to such a manual;

5.1.7 Full description of the provisions of sections 15⁶ and 52⁷ providing for the voluntary disclosure of categories of records by a public body and private body, respectively;

5.1.8 The notices issued in terms of sections 22⁸ and 54⁹ regarding fees to be paid in relation to requests for access; and

5.1.9 The regulations made in terms of section 92¹⁰

Members of the public can inspect or make copies of the Guide from the offices of the public or private bodies, including the office of the Regulator, during normal working hours. The Guide can also be obtained-

(a) upon request to the Information Officer;

(b) from the website of the Regulator (<https://www.justice.gov.za/infoereg/>)

6. DESCRIPTION OF THE SUBJECTS ON WHICH THE BODY HOLDS RECORDS AND CATEGORIES OF RECORDS HELD BY THE CIPC

Subjects on which CIPC holds records	Categories of records held on each subject
Strategic documents	Strategic plans, Annual performance plans, Quarterly reports, Annual reports
Human Resources	Advertised posts; Employee records; Skills development and learning plans and policies; Employment equity statistics
Finance and Supply Chain Management	Tenders, Treasury regulations, Service provider database; Service level agreements and contracts

⁶ Section 15(1) of PAIA- The information officer of a public body, must make available in the prescribed manner a description of the categories of records of the public body that are automatically available without a person having to request access

⁷ 8 Section 52(1) of PAIA- The head of a private body may, on a voluntary basis, make available in the prescribed manner a description of the categories of records of the private body that are automatically available without a person having to request access

⁸ 9 Section 22(1) of PAIA- The information officer of a public body to whom a request for access is made, must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

⁹ Section 54(1) of PAIA- The head of a private body to whom a request for access is made must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

¹⁰ Section 92(1) of PAIA provides that –“The Minister may, by notice in the Gazette, make regulations regarding-

(a) any matter which is required or permitted by this Act to be prescribed;

(b) any matter relating to the fees contemplated in sections 22 and 54;

(c) any notice required by this Act;

(d) uniform criteria to be applied by the information officer of a public body when deciding which categories of records are to be made available in terms of section 15; and

(e) any administrative or procedural matter necessary to give effect to the provisions of this Act.

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Business Rescue	Licensed business rescue practitioners; Accredited professional bodies
Legal	Terms and Conditions, Privacy Policy, Legislation, Guidance and Practice Notes
Communications	News, Articles, Opinions, Media Releases
Enforcement and Compliance	CC's without Accounting officers, Company Investigations; Non-compliant public companies in terms of filing obligations.
Compliance and Education	Learn-i-Biz, Compliance checklist report, Webinars – presentations on different subject matters.

7. CATEGORIES OF RECORDS OF THE CIPC WHICH ARE AVAILABLE WITHOUT A PERSON HAVING TO REQUEST ACCESS

Category	Document type	Available on website	Available on request
Strategic documents	Organizational structure; Functions; Strategic plans; Annual performance plans; Annual reports;	X	X
Vacancies	List of available vacancies and how to apply	X	X
Tenders	Advertised tenders; Awarded bids; Received bids; Cancelled tenders; Requests for information (RFI)	X	X
Business rescue	List of licensed business rescue practitioners; Status of business rescue proceedings; List of accredited professional bodies;	X	X
Investigations	Reports on investigations	X	X
Media Releases	News Articles Non-binding legal opinions	X	X
Legislation	Applicable Acts Regulations Forms and fees	X	X

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	Practice Notes Guidance Notes		
Administrative	Banking details Step-by-Step guides on processes Frequently asked questions Published Gazette notices	X	X

8. SERVICES AVAILABLE TO MEMBERS OF THE PUBLIC FROM THE CIPC AND HOW TO GAIN ACCESS TO THOSE SERVICES

The Companies and Intellectual Properties Commission (CIPC) has jurisdiction throughout the Republic of South Africa, is independent and subject only to the Constitution and the law, as well as any policy statement, directive or request issued to it by the Minister in terms of this Act. The Commission must be at all times impartial and perform its functions without fear, favour or prejudice.

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 and the Minister.

Abovementioned services can be accessed through the CIPC website and electronic transactional platforms – www.cipc.co.za.

Guidance on how to access the services of the CIPC, transact on the electronic platforms and submit enquiries on specific matters, is available through Step-by-Step Guides, Guidance Notes and Practice Notes, available on the CIPC Homepage, under the heading of Resources - <https://www.cipc.co.za/#>

9. PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY OR THE EXERCISE OF POWERS

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OR PERFORMANCE OF DUTIES BY THE CIPC

Public participation in the formulation of policy, guidance on the performance of duties and the exercise of the CIPC powers is encouraged and valued.



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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;
- Process piloting with members of the public;
- Client surveys; and
- Collaboration endeavors.

10. 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 74 – 82 of PAIA.

(a) **Internal appeal:**

Sections 74 – 75 of PAIA, provides for the right of a requestor or third party to lodge an internal appeal against a decision made by the Information Officer of the CIPC, with the relevant authority. Internal appeals can be filed in terms of matters where the CIPC refused a request for access, or decisions taken by the CIPC in terms of section 22, 26(1) or 29(3).

Internal appeal process: (section 75 of PAIA)

An internal appeal must be lodged in the prescribed form-

- (i) within 60 (sixty) days;
- (ii) delivered or sent to the information officer of the public body;
- (iii) identifying the subject of the internal appeal and state the reasons for the appeal in full;
- (iv) accompanied by the prescribed appeal fee.

Within 10 (ten) business days after receipt, the information officer of the CIPC will submit the lodged internal appeal, together with his/her reasons for the decision, with the relevant authority for consideration.

(b) **Filing of a complaint with the Information Regulator:**

Third parties (relevant to a request for access) that have been notified of a request for access to information and given an opportunity to make representations to the information officer of the CIPC, in terms of why access should not be provided, may lodge an internal appeal OR a complaint with the Information Regulator, against the decision made by the

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CIPC. Such internal appeal or complaint must be filed within 30 (thirty) days from the date of the notice.

(c) Process for approaching the court:

Sections 78 – 82 of PAIA provides for a requestor of information or third party to apply to court for appropriate relief. Such application to court may only be done after the requestor / third party has exhausted the internal appeal procedure against a decision made by the CIPC information officer. Such application to court must be done within 180 (one hundred and eighty) days after the internal appeal process has been finalized.

11. 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.

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Purpose of the processing of personal information by the CIPC:



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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 -

“(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 out 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.
- South African Police Services – investigations of criminal matters;

12. PLANNED TRANSBORDER FLOWS 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

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- e) the transfer is for the benefit of the data subject, but it is impractical to obtain consent from the data subject.

The movement of personal information through electronic transmission across national borders is observed from time to time. There is however no specific planned transborder flows of personal information that can be specifically documented. Each case is measured on its own merit and the above criteria applied accordingly. Examples include the following:

- Requests for information / subpoena's from jurisdictions outside of the Republic in the investigation of criminal matters;
- MOU's in place with foreign jurisdictions in terms of data sharing;
- Tending to request for information from international jurisdictions (Interpol, etc.) specifically on beneficial ownership data;

13. GENERAL 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:

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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.

14. AVAILABILITY OF THE MANUAL

This manual is made available in the following three official languages:

1. English;
2. Afrikaans; and
3. Zulu.

A copy of this manual or the updated version from time to time is also available as follows-

- on the CIPC website – www.cipc.co.za;
- at the head office of the CIPC for public inspection during normal business hours;
- to any person upon request and upon payment of a reasonable prescribed fee; and
- to the Information Regulator upon request.

A fee for a copy of the manual, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made.

The CIPC will, if necessary, update and publish this manual annually.

15. 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.).
5. Records held by the public body can only be provided in the language in which the record is held.

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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: Go to CIPC Website: www.cipc.co.za
- Click on "About" and select "Access to information.
 - Click on "Request for Access to Information Form"
 - The form will open in new tab, where document can be saved and filled in.
 - Email requests for access to paia@cipc.co.za

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.

Issued by

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