



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

GUIDANCE NOTE 1 OF 2023

THE PROTECTION OF PERSONAL INFORMATION ACT (POPIA) CONSENT

The POPIA legislation indicates that it must be interpreted in such a manner that-
“does not prevent any public or private body from exercising or performing its powers, duties and functions in terms of the law as far as such power, duties and functions relate to the processing of personal information and such processing is in accordance with this Act or any other legislation”

The Companies Act, 2008, section 187(4) details part of the functions of the Companies and Intellectual Property Commission (CIPC) and states the following:-

“(4) The Commission must-

(a) establish and maintain in the prescribed manner and form-

(i) a companies register; and

(ii) any other register contemplated in this Act, or in any other legislation that assigns a registry function to the Commission;

(b) ...;

(c) make the information in those registers efficiently and effectively available to the public and to other organs of state;”

In order for the CIPC to perform its functions, it is necessary to process the personal information of data subjects, (which includes collections, storage, modification and dissemination). The Companies and Intellectual Property Commission (CIPC) customers will be requested to provide consent for their personal information to be processed, when accessing the CIPC website or any of its processing platforms.

Although every possible and reasonable safeguards (such as masking of identification numbers, recordal of access requests to the CIPC database) are built into the CIPC systems to ensure that no unauthorized access is obtained, the information forms part of the public domain and is available for public consumption.

Important to note is the provisions of section 38 of POPIA, which explains that any personal information processed by a public body for the purpose of performing any relevant function of that body, is exempt from certain restrictions as described in POPIA, to the extent that applications of those provisions (restrictions) to the personal information would likely prejudice the proper discharge of that public body's functions.

Section 38(1) of POPIA, states as follows:-

“38(1) Personal information processed for the purpose of discharging a relevant function is exempt from sections 11(3) and (4), 12, 15 and 18 in any case to the extent to which the

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application of those provisions to the personal information would be likely to prejudice the proper discharge of that function.”

The above sections highlight and confirm the fact that the CIPC must provide access to its registers and the data contained thereon as effectively and efficiently as possible, in order to perform its functions as a public body properly and in compliance with the Companies Act, and other relevant legislation.

For any further clarity or guidance on the subject of POPIA and its applicability to the functions of the CIPC, please see the CIPC Privacy Policy as published on the CIPC website.



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