

BEE23

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Protection of Personal Information Act Policy

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Policy Statement

Every person has fundamental rights regarding how their personal information is handled. During its activities in the ordinary course of its business, BEE123 Proprietary Limited (“**BEE123**”) will collect, store and process personal information about BEE123 staff, contractors, customers, partners, resellers, agents, licensors, service providers, suppliers and other third parties. BEE123 recognises the need to treat such personal information in an appropriate and lawful manner.

Any breach of this policy by BEE123 personnel amounts to serious misconduct and may result in appropriate disciplinary action.

Definitions

For purposes of this policy, the following terms have the following meanings:

- “**Child**” is a living individual under the age of 18 who has not been declared legally competent by a court;
- “**Data Subject**” includes all living individuals and juristic persons about whom BEE123 holds Personal Information. All Data Subjects have legal rights in relation to their Personal Information;
- “**Direct Marketing**” means to approach a Data Subject, either in person or by mail or Electronic Communication, for the direct or indirect purpose of:
 - promoting or offering to supply, in the ordinary course of business, any goods or services to the Data Subject; or
 - requesting the Data Subject to donate 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;
- “**Information Officer**” means the information officer appointed as such by BEE123 in terms of section 56 of POPI, who has the ultimate responsibility to ensure that BEE123 complies with the provisions of POPI, as recorded in the “About this Policy” section below;
- “**Operator**” includes any person who Processes Personal Information on behalf of a Responsible Party. Employees of BEE123 are excluded from this definition, but this term includes suppliers or service providers who handle Personal Information on BEE123’s behalf;
- “**PAIA Manual**” means a manual prepared in terms of **section 51 of the Promotion of Access to Information Act, 2 of 2000**;

- **“Personal Information”** means information relating to an identifiable, living, natural person, and (where applicable) an identifiable, existing juristic person, including, without limitation, the name, race, gender, marital status, address and identifying number of a person, and any symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- **“POPI”** means the **Protection of Personal Information Act, 4 of 2013**;
- **“Processing”** is any activity that involves the use of Personal Information. It includes any operation or activity or any set of operations, whether by automatic means, concerning Personal Information, including:
 - the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
 - dissemination by means of transmission, distribution or making available in any other form; and
 - merging, linking, as well as restriction, degradation, erasure or destruction of information;
- **“Processing Conditions”** are the eight conditions for the lawful Processing of Personal Information set out in Chapter 3 of POPI;
- **“Regulator”** means the Information Regulator established in terms of section 39 of POPI;
- **“Responsible Party”** means a person who, or organisation which, determines the purposes for which, and the manner in which, any Personal Information is Processed. The Responsible Party has a responsibility to establish practices and policies in line with POPI. BEE123 is the Responsible Party with respect to all Personal Information used in its business;
- **“Special Personal Information”** includes Personal Information concerning the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a Data Subject (including images, lie detector and psychometric tests and fingerprints), or the criminal behaviour of a Data Subject to the extent that such information relates to the alleged commission by a Data Subject of any offence, or any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings; and
- **“Users”** includes employees and contractors of BEE123 whose work involves using or having access to Personal Information. Users have a duty to protect the Personal Information that they always handle by following this policy and any supplemental or related data privacy and data protection policies or directives issued by BEE123.

About this Policy

This policy applies to all Users and is of force and effect from 1 July 2021.

The types of information that BEE123 may be required to handle include details of current, past and prospective employees, contractors, customers, partners, resellers, agents, licensors, service providers, suppliers and others that BEE123 deals with. The information that may be held on paper or on a computer or other media is subject to certain legal safeguards specified in POPI and other regulations. POPI imposes restrictions on how BEE123 may use that information.

POPI applies to the automated or non-automated Processing of Personal Information entered into a record in any form (provided that, when the recorded Personal Information is Processed by non-automated means, it forms part of a filing system or is intended to form part thereof) by or for BEE123.

This policy sets out BEE123's rules on Personal Information protection and the legal conditions that must be satisfied in relation to the Processing (including obtaining, handling, storing, transporting and destroying) of Personal Information.

This policy does may be amended at any time.

The Information Officer is responsible for ensuring compliance with POPI and with this policy. That post is held by **Claudia Pather** and seconded to **Carol Peacock**. Any questions or concerns about the operation of this policy should be referred, in the first instance, to the Information Officer.

If you consider that this policy has not been followed in respect of Personal Information about yourself or others, you should raise the matter with your line manager or the Information Officer.

Purpose of this Policy

The purpose of this policy is to establish management direction and high-level objectives for regulating the way Personal Information is Processed and to provide for remedies in cases where Personal Information is not handled accordingly. Further purposes of this policy include:

- the supplementation of BEE123's existing policies and aligning them with South African laws;
- compliance with the requirements of POPI;
- identifying and codifying of documents and ensuring adequate protection and maintenance of accuracy of documents, where required;

- providing a set framework and unified policy regarding the methods and procedures for the retention and destruction of documents;
- ensuring records that are no longer required or documents that are of no value are destroyed properly and in accordance with the data retention schedule; and
- helping employees and contractors in understanding the requirements relating to the protection of Personal Information and the retention and destruction of documents.

Processing Conditions

Anyone Processing Personal Information must comply with the following eight Processing Conditions, as more fully explained below:

- Accountability;
- Processing Limitation;
- Purpose Specification;
- Further Processing Limitation;
- Information Quality;
- Openness;
- Security Safeguards; and
- Data Subject Participation.

Condition 1: Accountability

BEE123 must ensure that the Processing Conditions are complied with.

BEE123 has appointed an Information Officer to encourage and support BEE123's overall compliance with POPI.

The Information Officer is responsible for implementing Personal Information security measures, which will, among other things, address document retention, access to information and classification of data.

BEE123 will, furthermore, designate specific individuals to monitor compliance with information security standards within each business area.

Training or awareness sessions for employees on information security will be conducted on a regular basis.

Condition 2: Processing Limitation

Personal Information may only be Processed lawfully and in a manner that does not infringe on the privacy of a Data Subject.

Personal Information may only be Processed if, given the purpose for which it is Processed, it is adequate, relevant and not excessive.

There are a number of grounds that BEE123 may use in order to Process Personal Information, including with consent from the Data Subject, where it is required to carry out actions for the conclusion or performance of a contract to which the Data Subject is party or where it is necessary to protect the legitimate interests of BEE123, the Data Subject or a third party to do so.

It is advisable to obtain voluntary, informed and specific consent from Data Subjects, where possible, before collecting their Personal Information. This can be done by means of the Data Subject accepting and consenting to be bound by a privacy statement which sets out details as to how and why BEE123 Processes a Data Subject's Personal Information.

A Data Subject may withdraw consent at any time and such withdrawal of consent should be noted. A Data Subject may also object at any time, on reasonable grounds, to the Processing of its Personal Information, save if other legislation provides for such Processing. BEE123 may then no longer Process the Personal Information, unless it has another lawful justification for doing so.

Generally, Personal Information must be collected from the Data Subject directly, except in certain circumstances, which may include where the Data Subject has made Personal Information public or where collection from another source is necessary.

Condition 3: Purpose Specification

Personal Information may only be collected for specific, explicitly defined and lawful reasons relating to the functions or activities of BEE123, of which the Data Subject is (generally) made aware. Data Subjects can be made aware of the reasons by means of a privacy statement published on BEE123's website and incorporated by reference in Data Subject-facing documents, such as terms and conditions or onboarding forms.

Personal Information will only be collected to the extent that it is required for the specific purpose and, as a rule, notified to the Data Subject. Any Personal Information which is not necessary for that purpose will not be collected in the first place.

Records of Personal Information may only be kept for as long as necessary for achieving the purpose for which the information was collected or subsequently Processed, unless:

- retention of the record is required or authorised by law;
- the Responsible Party reasonably requires the record for lawful purposes related to its functions or activities;

- retention of the record is required by a contract between the parties thereto; or
- the Data Subject (or, where the Data Subject is a Child, a competent person) has consented to the retention of the record.

Personal Information will, therefore, not be kept longer than is necessary for the purpose for which it was collected. This means that Personal Information must be destroyed or deleted in a manner that prevents its reconstruction in an intelligible form or be deidentified as soon as reasonably practicable after BEE123 is no longer authorised to retain the record. For guidance on how long certain Personal Information is permitted to be kept before being destroyed, contact the Information Officer.

Condition 4: Further Processing Limitation

Further Processing of Personal Information must be compatible with purpose of collection.

Once collected, Personal Information will, therefore, generally, only be Processed for the specific purposes notified to the Data Subject when the Personal Information was first collected or for any other purposes specifically permitted by POPI. This means that Personal Information will not be collected for one purpose and then used for another. If it becomes necessary to change the purpose for which the Personal Information is Processed, the Data Subject will be informed of the new purpose and consent will be obtained before any Processing occurs. Where this is not possible, the Information Officer should be consulted.

Where Personal Information is transferred to a third party for further Processing, the further Processing must be compatible with the purpose for which it was initially collected, unless the Data Subject has consented to such further Processing, or it is permitted in terms of POPI.

Condition 5: Information Quality

BEE123 must take reasonably practicable steps to ensure that Personal Information is complete, accurate, not misleading and updated where necessary considering the purpose for which such information is collected.

Information which is incorrect, or misleading is not accurate, and steps will, therefore, be taken to check the accuracy of any Personal Information at the point of collection and at regular intervals afterwards. Inaccurate or out-of-date information will be destroyed.

The Information Officer will develop processes for:

- checking the accuracy and completeness of records containing Personal Information;
- dealing with complaints relating to the timeliness and accuracy of Personal Information;
- Data Subjects to periodically verify and update their Personal Information;
- making individuals aware of these processes; and
- monitoring and tracking updates to Personal Information.

The Information Officer will, furthermore, put procedures in place to verify that records containing Personal Information remain relevant, accurate and up to date.

Condition 6: Openness

BEE123 must take reasonably practicable steps to ensure that the Data Subject is aware of:

- the information being collected and, where the information is not collected from the Data Subject, the source from which it is collected;
- the legal identity and contact address of BEE123;
- the purpose for which the information is being collected;
- whether or not the supply of the information by that Data Subject is voluntary or mandatory;
- the consequences of failure to provide the information;
- any law authorising or requiring the collection of the information;
- where applicable, the fact that BEE123 intends to transfer the information to another country or to an international organisation and the level of protection afforded to the information by that country or organisation;
- any further information, such as the recipient or category of recipients of the information, the nature or category of the information and the existence of the right of access to and the right to rectify the information collected;
- the existence of the right to object to the Processing of Personal Information; and • the right to lodge a complaint to the Regulator and the contact details of the Regulator.

The above can be set out in a privacy statement that is made available on BEE123's website.

By law, all organisations in South Africa are required to have PAIA Manual which will outline to the public:

- the categories of Personal Information collected;
- the purpose of Processing such Personal Information;
- descriptions of the categories of Data Subjects and of the information or categories of information relating thereto;

- the recipients or categories of recipients to whom the Personal Information may be supplied;
- planned transborder flows of Personal Information; and
- a general description of information security measures to be implemented.

Condition 7: Security Safeguards

BEE123 will keep all Personal Information secure against the risk of loss, unauthorised access, interference, modification, destruction or disclosure and conduct regular risk assessments to identify and manage all reasonably foreseeable internal and external risks to Personal Information under its control.

BEE123 will secure the integrity of the Personal Information under its control.

Duty in Respect of Operators

Operators (i.e., third parties who may Process Personal Information on behalf of BEE123) include call centres, outsourced payroll administrators, marketing database companies, recruitment agencies, psychometric assessment centres, document management warehouses, external consultants and software providers.

BEE123 will implement the following key obligations in respect of Operators:

- the Operator may not Process Personal Information on behalf of BEE123 without the knowledge and authorisation of BEE123;
- BEE123 will ensure that the Operator implements the security measures required in terms of Condition 7: Security Safeguards;
- there will be a written contract in place between BEE123 and the Operator that requires the Operator to maintain the confidentiality and integrity of Personal Information Processed on behalf of BEE123; and
- if the third party is located outside of South Africa, BEE123 will comply with the requirements in POPI in respect of transborder transfers of Personal Information.

Duties in Respect of Security Compromises

In the event that Personal Information has been compromised, or if there is a reasonable belief that a compromise has occurred, BEE123 (or an Operator Processing Personal Information on its behalf) will notify the Regulator and the relevant Data Subjects (if their contact details are available).

Condition 8: Data Subject Participation

Request for Information

BEE123 recognises that a Data Subject has the right to request BEE123 to confirm, free of charge, whether or not it holds Personal Information about the Data Subject and request BEE123 to provide a record or a description of the Personal Information held, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information at a prescribed fee.

All Users will comply with BEE123's Subject Access Request Policy and PAIA Manual in respect of any access to Personal Information requests by Data Subjects.

Request to Correct or Delete

The Data Subject may request the Information Officer to:

- correct or delete Personal Information relating to the Data Subject in its possession or under its control that is inaccurate, irrelevant, excessive, misleading or obtained unlawfully; or
- destroy or delete a record of Personal Information about the Data Subject that BEE123 is no longer authorised to retain.

There are prescribed forms to be completed by the Data Subject to exercise these rights have been updated following communication from the IR in October 2023 and they are included in BEE123's PAIA Manual.

BEE123 will provide credible proof to the individual of the action that has been taken in response to the request.

If any changes to the Personal Information will have an impact on any decisions to be made about the individual, BEE123 will inform all third parties to whom the information has been disclosed, including any credit bureaus, of such changes.

Special Personal Information and Information of Children

BEE123 must be especially careful if it Processes Special Personal Information or information of Children. As a rule, consent is required (and consent in respect of a Child must be obtained from the parent or guardian) unless there is a law in place that obliges BEE123 to Process such information, such as the Employment Equity Act, 55 of 1998.

Examples of circumstances where Special Personal Information of Users is likely to be Processed are set out below:

- information about an employee's physical or mental health or condition to monitor sick leave and take decisions as to the employee's fitness for work;
- an employee's racial or ethnic origin or religious or similar information to monitor compliance with employment equity legislation;
- the use of CCTV camera footage;
- internal forensic investigations; and
- to comply with legal requirements and obligations to third parties.

Prior Authorisation

BEE123 must obtain prior authorisation from the Regulator on a once-off basis prior to any Processing if it plans to:

- Process any unique identifiers (defined as "any identifier that is assigned to a data subject and is used by a responsible party for the purposes of the operations of that responsible party and that uniquely identifies that data subject in relation to that responsible party") of Data Subjects:
 - for a purpose other than the one for which the identifier was specifically intended at collection; and
 - with the aim of linking the information together with information Processed by other Responsible Parties (which would include other group entities);
- Process information on criminal behaviour or on unlawful or objectionable conduct on behalf of third parties;
- Process information for the purposes of credit reporting (such as a credit bureau); or
- transfer Special Personal Information or the Personal Information of Children to a third party in a foreign country that does not provide an adequate level of protection for the Processing of Personal Information.

The procedures to apply for such prior authorisation are set out at

<https://www.justice.gov.za/inforeg/docs/InfoRegSA-Invite-PriorAuthorisation20210311.pdf>.

Fair and Lawful Processing

POPI is not intended to prevent the Processing of Personal Information, but to ensure that it is done fairly and without adversely affecting the rights of the Data Subject.

For Personal Information to be Processed lawfully, certain requirements must be met. These may include, among other things, requirements that the Data Subject has consented to the Processing, or that the Processing is necessary for the legitimate interests of the Responsible Party or the party to whom the Personal Information is disclosed. In most cases when Special Personal Information is being Processed, the Data Subject's explicit consent to the Processing of such information will be required.

Personal Information about Users may be Processed for legal, personnel, administrative and management purposes and to enable BEE123 to meet its legal obligations as an employer—for example, to pay Users, monitor their performance and to confer benefits in connection with their employment.

Personal Information about staff, contractors, customers, partners, resellers, agents, licensors, service providers, suppliers and other third parties may be Processed for the purposes set out in BEE123's PAIA Manual.

Transborder Transfers of Personal Information

BEE123 may not transfer Personal Information about a Data Subject to a third party who is in a foreign country unless:

- the third party who is the recipient of the information is subject to a law, binding corporate rules or binding agreement which provides an adequate level of protection that:
 - effectively upholds principles for reasonable Processing of the information that are substantially like Processing Conditions; and
 - includes provisions that are substantially like those of POPI relating to the further transfer of Personal Information from the recipient to third parties who are in a foreign country.
- the Data Subject consents to the transfer.
- the transfer is necessary for the performance of a contract between the Data Subject and the Responsible Party, or for the implementation of pre-contractual measures taken in response to the Data Subject's request.

- the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the Data Subject between the Responsible Party and a third party; or
- the transfer is for the benefit of the Data Subject, and:
 - it is not reasonably practicable to obtain the consent of the Data Subject to that transfer; and
 - if it were reasonably practicable to obtain such consent, the Data Subject would be likely to give it.

Direct Marketing

POPI draws a distinction between Direct Marketing by means of unsolicited Electronic Communications and Direct Marketing in person or by mail or telephone. Several provisions in POPI draw a distinction between these two types of marketing.

When BEE123 does any form of Direct Marketing, it must provide Data Subjects with an opt out. In addition, electronic Direct Marketing is stringently regulated under POPI. Processing of Personal Information of a Data Subject for the purpose of Direct Marketing by means of any form of Electronic Communication, including automatic calling machines (i.e., machines that can place automated calls without human intervention), facsimile machines, SMSes or e-mail is prohibited unless the Data Subject:

- has given his, her or its consent in the prescribed manner and form set out in regulation 6 of the POPI Regulations to the Processing; or
- is a customer of BEE123, as defined in section 69 of POPI.

Monitoring and Review of This Policy

This policy is reviewed periodically by the Information Officer to ensure it is achieving its stated objectives. This policy should be read in conjunction with the BEE123 Data Privacy Policy.