



**INFORMATION
REGULATOR
(SOUTH AFRICA)**

*Ensuring protection of your personal information
and effective access to information*

STRATEGIC PLAN

FOR

2020/21 to 2024/25

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Foreword by the Chairperson

The Information Regulator (Regulator) is established in terms of Section 39 of the Protection of Personal Information Act 4 of 2013 (POPIA), which enjoins the Regulator to be independent and impartial, and to perform its functions and exercise its powers without fear, favour or prejudice. It is accountable to the National Assembly.

The Regulator is responsible for the promotion and protection of the right to privacy as it relates to the protection of personal information and the right of access to information. In this regard, it exercises its powers and performs its functions in accordance with POPIA and the Promotion of Access to Information Act 2 of 2000 (PAIA).

The Regulator consists of five (5) members (Members) namely, the Chairperson and four (4) ordinary Members who were appointed by the President of the Republic of South Africa for a five (5) year term effective from 1 December 2016. The Chairperson and two (2) ordinary Members are full-time and the other two (2) Members are part-time. One full-time Member is responsible for POPIA and the other full-time Member is responsible for PAIA.

The three (3) years that the Members of the Regulator have been in office have been both challenging and exciting. When the Members took office on 1 December 2016, all that they had were copies of POPIA which were to guide them in the daunting task of establishing the Regulator. The honour and privilege of being given the responsibility to establish the first data protection authority for the country spurred the Members on to ensure that they establish an organisation which will be counted amongst the best data protection authorities globally. This commitment is reflected in the vision which they adopted, namely, “A world class institution in the protection of personal information and the promotion of access to information”.

The budgetary constraints which the organisation is faced with has not deterred the Members from making progress in establishing the Regulator. The organisation now has its own offices. In consultation with the Minister of Finance, the Members decided on a phased in approach to the recruitment of staff. The first phase has been concluded. The Chief Executive Officer (CEO) and five (5) Executives have been appointed. The second phase is at an advanced stage. It entails the recruitment of one (1) more Executive, managers and administrative officers in the Human Resources and Finance Divisions.

The Regulator still uses the policies and systems of the Department of Justice and Constitutional Development (DoJ& CD), which has supported and continues to support the

Regulator during its formative stage. However, it is important for the Regulator to separate from the DoJ& CD. The separation is urgent and will ensure that the Regulator functions independently, impartially and without fear, favour and prejudice as POPIA obliges it to do. The recruitment of staff in the Human Resources and Finance Divisions will enable the Regulator to adopt policies and system of internal control.

The Members have spent a lot of time and effort on the establishment of the administration of the Regulator. However, they have not neglected the execution of some aspects of the core mandate of the Regulator, namely the protection of personal information and the promotion of access to information. In addition to making Regulations which were tabled in Parliament in December 2018, the Regulator is in the process of finalising the Draft Guidelines on the drafting of Codes of Conduct (Guidelines). These Guidelines will assist public and private bodies to draft their Codes of Conduct on the protection of personal information. It is envisaged that the Guidelines will be published in the Government Gazette during the 2020/21 financial year.

The urgent need to bring POPIA into full effect cannot be over emphasised. The absence of a fully functional and effective personal information regulatory authority is beginning to have an adverse effect on the country. The number of data breaches in both the public and private sectors, the unlawful and unauthorised use of personal information of individuals, cyber crime and identity theft are increasing at an alarming rate. Until the remaining sections of POPIA are brought into effect, the Regulator is unable to enforce compliance and victims are deprived of an appropriate remedy. It is for this reason that the Regulator has written to the Minister of Justice and Correctional Services and the President to request them to bring the remaining sections of POPIA into effect during the 2020/21 financial year. The coming into effect of the remaining section of POPIA will also trigger the transfer of the PAIA functions from the South African Human Rights Commission (SAHRC) to the Regulator.

The protection of personal information lies at the heart of the much talked about Fourth Industrial Revolution (4IR) and the digital economy. In the digital age, our country can only compete globally if it has a fully functional, effective and efficient protection of personal information regulatory authority. Whilst the Regulator is committed to implementing POPIA in its entirety, the unavailability of adequate budget remains a huge challenge.

The Regulator is not oblivious to the financial constraints facing the country. The meagre budget which we have been allocated will not deter us from executing the mandate of the Regulator, which we believe is a critical organisation in the digital age. We will therefore continue to

engage with the Minister of Finance and Parliament through the Portfolio Committee on Justice and Correctional Services for a reasonable budget.

A handwritten signature in black ink, appearing to read "P. Tlakula". The signature is fluid and cursive, with a prominent initial "P." followed by the name "Tlakula".

Adv. Pansy Tlakula

Chairperson

Statement by the Accounting Officer

This Strategic Plan seeks to align the plans of the Information Regulator (Regulator) with the Medium Term Strategic Framework (MTSF) of Government for the electoral cycle 2020/21 - 2024/25. The Regulator has a dual mandate of promoting and protecting the right to privacy as it relate to the protection of personal information and the right of access to information. This mandate is provided for in the Protection of Personal Information Act 4 of 2013 (POPIA) and the Promotion of Access to Information Act 2 of 2002 (PAIA).

In order to ensure that the mandate as contained in the above-mentioned pieces of legislation is fulfilled, the Regulator has identified the following Strategic Outcomes that will be implemented over the MTSF period:

- The implementation of education and awareness programmes nationwide aimed at informing and empowering the data subjects to protect their right to privacy as it relates to the protection of personal information and the mechanisms that they can use to prevent any violation; and
- A data subject will be able to approach the Regulator to lodge a complaint about any possible unlawful processing of his or her personal information.

In respect of Legal, Policy, Research and Information Technology Analysis, the Regulator will:

- Embark on litigation on its own initiative or when it is cited as a party in matters relating to the protection of personal information;
- Conduct research relating to proposed legislation or proposed policy of government that may affect the protection of personal information of data subjects;
- Undertake research and monitor the developments in information processing and computer technology;
- Issue, develop, publish and monitor the implementation of the Guidelines for Codes of Conduct; and
- Develop and implement the Complaints Management System.

The above-mentioned will directly address the implementation of the mandate of the Regulator provided for in POPIA.

The Regulator can only execute its mandate if it has built its own administrative capacity. In this regard the Regulator has developed the Organisational Structure which is being implemented in

a phased in approach. To date all except one (1) Executive position and administrative positions have been filled. The implementation of the entire Organisational Structure is dependent on the availability of funds.

Finally, as the Chief Executive Officer and the Head of Administration of the Regulator, I am looking forward to ensuring that the efficient and effective systems of internal control are in place to promote good governance and to ensure that the Regulator fulfills its legislative mandate.



Mr. Marks Thibela
Accounting Officer

Official Sign-Off

It is hereby certified that this Strategic Plan:

- Was developed by the Management of the Information Regulator (Regulator) under the guidance of the Chairperson and Members;
- Takes into account all relevant policies, legislation and other mandates which the Regulator is responsible for; and
- Accurately reflects the Impact, Outcomes and Outputs which the Regulator will endeavor to achieve over the period 2020/21 to 2024/25

Mr. Prakash Narismulu
Chief Financial Officer

Signature



Mr. Marks Thibela
Accounting Officer

Signature



Adv. Pansy Tlakula
Chairperson

Signature



PART A: MANDATE

1. Constitutional Mandate

1.1. The Regulator was established to ensure respect for and to protect, enforce and fulfill the right to privacy and the right of access to information.

2. Legislative Mandate

2.1 Core functions in terms of POPIA

2.1.1. To provide education by:

- a) promoting an understanding and acceptance of the lawful processing of personal information;
- b) undertaking educational programmes;
- c) making public statements; and
- d) providing advice.

2.1.2. To monitor and enforce compliance by:

- a) public and private bodies;
- b) undertaking research and monitoring developments in information processing and computer technology;
- c) examining proposed legislation, subordinate legislation, and policies, and provide a report on the result of the examination to the Minister of Justice and Correctional Services (Minister) and to Parliament.
- d) reporting to Parliament on policy matters affecting the protection of personal information including the need for legislative, administrative or other measures to enhance the protection of personal information;
- e) conducting assessments in respect of the processing of personal information;
- f) monitoring the use of unique identifiers and report to Parliament;
- g) maintaining and publishing copies of the registers prescribed in POPIA; and
- h) examining proposed legislation that makes provision for the collection and disclosure of personal information and provide the report of the results of the examination to the Minister.

2.1.3. To consult with interested parties by:

- a) receiving and inviting representations;
- b) co-operating on a national and international basis with other bodies concerned with the protection of personal information; and
- c) acting as a mediator between opposing parties.

2.1.4. To handle complaints by:

- a) receiving and investigating complaints;
- b) gathering information;
- c) attempting to resolve complaints through dispute resolution mechanisms; and
- d) serving notices.

2.1.5. To conduct research on:

- a) the desirability of acceptance of international instruments relating to the protection of personal information; and
- b) any other matter that should be drawn to Parliament's attention.

2.1.6. In respect of codes of conduct to:

- a) issue, amend or revoke codes of conduct;
- b) make guidelines to assist bodies to develop or apply codes of conduct; and
- c) consider determinations by adjudicators under approved codes of conduct.

2.1.7. To facilitate cross-border cooperation in the enforcement of the privacy laws.

2.2. Core functions in terms of PAIA

2.2.1. In respect of complaints to:

- a) consider a complaint after the internal appeal procedures have been exhausted; and
- b) receive written complaints or to provide assistance to a person who wishes to make a complaint in writing.

2.2.2. In respect of investigations to:

- a) investigate complaints and in the course of an investigation serve an information notice on the Information Officer (IO) or head of a private body;
- b) refer a complaint to the Enforcement Committee;
- c) decide to take no action on the complaint;
- d) attempt to settle a complaint through conciliation; and
- e) issue enforcement notices after considering the recommendation of the Enforcement Committee.

2.2.3. To issue notices.

2.2.4. To issue enforcement notices after considering the recommendations of the Enforcement Committee.

2.2.5. To make assessments whether public and private bodies comply with the provision of PAIA.

2.2.6. In respect of additional functions to:

- a) compile and make available a guide on the usage of PAIA;
- b) where possible, develop and conduct educational programmes in particular for disadvantaged communities;
- c) identify gaps in PAIA or any other laws and makes recommendation to reform or amend PAIA or any other laws;
- d) make recommendations for procedures on how private and public bodies make information electronically available;
- e) monitor implementation of PAIA;
- f) if possible, assist any person requesting information;
- g) train Information Officers (IO) and Deputy Information Officers (DIO);
- h) recommend to a public or private body to make changes in the manner in which it administers PAIA;
- i) consult with and receive reports from public and private bodies on problems

encountered in complying with PAIA;

- j) obtain advice from, consult with, and consider proposals or recommendations from parties in connection with the Regulator's functions;
- k) request the Public Protector (PP) to submit to the Regulator a report on the number of complaints processed relating to PAIA and the nature and outcome of those complaints; and
- l) enquire into any matter including legislation, common law, practice and procedure related to PAIA.

2.2.7. A private body should submit information about requests for access to its records and include this information in its Annual Report, upon request by the Regulator.

3. Policy Mandates

Only certain sections of POPIA have come into effect. The Regulator has requested the Minister and the President to bring the remaining sections of POPIA into effect at the beginning of the 2020/21 financial year.

The Regulator is empowered in terms of POPIA to conduct research and to report to Parliament:

“from time to time on the desirability of the acceptance, by South Africa, of any international instrument relating to the protection of the personal information of a data subject”.

POPIA also empowers the Regulator to make Regulations and to:

“issue, from time to time, codes of conduct, amend codes and to revoke codes of conduct and “make guidelines to assist bodies to develop codes of conduct or to apply codes of conduct”.

4. Relevant Court Cases

- My Vote Counts NPC v President of the Republic of South Africa and Others.
- The President of the Republic of South Africa v The Public Protector and Others
- Arena Holdings (Pty) Ltd. T/A Financial Mail and Another v South African Revenue and Others.

PART B: STRATEGIC FOCUS

5. Vision

A world-class institution in the protection of personal information and the promotion of access to information.

6. Mission

An independent institution which regulates the processing of personal information and the promotion of access to information in accordance with the Constitution and the law so as to protect the rights of everyone.

7. Values

- Transparency
- Accountability
- Integrity
- Excellence
- Impartiality
- Responsiveness

8. Situational Analysis

The Regulator conducted a strategic planning review session with specific focus on the internal and external environments as follows:

8.1.External Environment

8.1.1 Opportunities

The Regulator was established at a critical time when there is an unprecedented retention of personal information in the digital space. This has resulted in a dire need to ensure the protection of personal information. Artificial Intelligence (AI) is intrinsically linked to the day to day living. Whilst the Regulator welcomes technological innovations, such innovations should comply with POPIA.

The Regulator is a member of Regional and International bodies on the protection of personal information and access to information.

The involvement of the Regulator in these bodies provides it with the opportunity to share best practices with similar institutions globally. The Regulator is one of the three (3) authorities in Africa which have a dual mandate, namely the protection of personal information and the promotion of access to information. The full establishment of the Regulator will enable it to take the lead on the African Continent and will also serve as a benchmark for other countries that are still in the process of establishing regulatory bodies.

8.1.2 Threats

The delay in the full establishment of the administration and operationalisation of the Regulator poses a risk of it losing its credibility. The data subjects who are victims of unlawful processing of their personal information are without recourse. Moreover, South Africa is becoming a hotbed for cybercrime. It is therefore important for the Minister and the President to bring the remaining sections of POPIA into operation urgently.

The coming into effect of the remaining sections of POPIA will contribute towards building trust. Without a fully functional Regulator, foreign and local investors will be hesitant to invest in the economy of the country.

8.2. Internal Environment

8.2.1 Strengths

The Regulator is an independent institution that is subject only to the Constitution and the law. It performs its functions and exercises its powers without fear, favour or prejudice. The Regulator is accountable to the National Assembly. It is the sole regulatory body that is mandated to protect personal information and to promote access to information in South Africa. The decisions of the Regulator can only be reviewed by a court of law.

8.2.2 Weaknesses

The Regulator is the custodian of both POPIA and PAIA. Section 40(1) of POPIA provides for duties, powers and functions of the Regulator which inter alia include: to provide education, to monitor compliance, perform consultations, handle complaints, conduct research, issue Codes of Conduct, facilitate cross-border cooperation and in

general perform duties incidental or conducive to the performance of any of the preceding functions. The execution of these duties and functions requires adequate resources such as skilled and experienced human capital, substantial funding and specialised Information and Communication Technology (ICT) infrastructure.

PART C: PERFORMANCE INFORMATION

9. Institutional Performance

9.1. Measuring the Impact

Impact Statement	Promotion and protection of personal information and the promotion of access to information
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9.2. Measuring Outcomes and Outputs

Outcome	Outcome Indicator	Baseline 2019/20	Performance Targets over the Medium Term Period				
			2020/21	2021/22	2022/23	2023/24	2024/25
1. Personal information promoted, protected and respected	Number of complaints received	271	300	400	50	600	700
	Percentage of stakeholders who are aware of the existence of the Regulator	Nil	Nil	Nil	5 % of sampled population	10 % of sampled population	10 % of sampled population
2. Access to information promoted.	Percentage improvement in the compliance with section 32 of PAIA	Not yet determined	Nil	Nil	10%	15%	25%

9.3. Explanation of Planned Performance over the Five Year Period

a) Contribution towards the National Development Plan (NDP)

The Regulator does not contribute directly towards any of the outcomes in the National Development Plan. However, it supports constitutional democracy through the protection and promotion of two (2) rights which are enshrined in sections 14 and 32 of the Constitution.

b) Rationale for the choice of the Outcome Indicators

The selected Outcome Indicators focus on the mandate of the Regulator which is derived from sections 14 (right to privacy) and 32 (right of access to information) of the Constitution. The Regulator intends to measure the volume of complaints received as a determinant that people are aware of their constitutional rights to privacy as it relates to the protection of personal information and of the existence of the Regulator.

With regard to the PAIA, the intention is to determine the level of improvement in compliance with the Act by both the public and private bodies. Compliance relates to the development and implementation of the Guide on how to use PAIA and POPIA.

(a) Explanation of enablers to achieve the targets

The followings targets will be set over the medium-term period in each of the outcomes

Outcome	Explanation of enablers to achieve targets
<p>1. Personal information is promoted, protected and respected</p>	<ul style="list-style-type: none"> • The implementation of education and awareness programmes nationwide aimed at informing and empowering the data subjects to protect their right to privacy as it relates to the protection of personal information and the mechanisms that they can use to prevent any violation; and • Data subjects will be able to approach the Regulator to lodge complaints about any possible unlawful processing of their personal information. <p>In respect of Legal, Policy, Research and Information Technology Analysis, the Regulator will:</p> <ul style="list-style-type: none"> • Embark on litigation on its own initiative or when it is cited as a party in matters relating to the protection of personal information; • Conduct research relating to proposed legislation or proposed policy of government that may affect the protection of personal information of data subjects; • Undertake research and monitor the developments in information processing and computer technology; • Issue, develop, publish and monitor the implementation of the Guidelines for Codes of Conduct; and • Develop and implement the Complaints Management System; and • Develop human capital, systems, structures and business process for efficient and effective organisational performance management.
<p>2. Access to information promoted</p>	<ul style="list-style-type: none"> • The implementation of education and awareness programmes aimed at empowering the public on how to exercise their right of access to information and • The development and implementation of a Complaints Management System.

10. Key Risks

Outcome	Key risk	Mitigation Action
1. Personal information promoted, protected and respected	<ul style="list-style-type: none"> Delay in the operationalisation of POPIA 	<ul style="list-style-type: none"> The Regulator has submitted a request to the Minister and the President to issue a Proclamation that will bring into effect the remaining sections of POPIA.
	<ul style="list-style-type: none"> Delay in the full-establishment of the administration of the Regulator 	<ul style="list-style-type: none"> Develop and implement a Separation Plan from the DoJ&CD covering Financial and Human Resource areas of the Regulator. Finalisation of the Complete Organisational Structure and Operating Model.
	<ul style="list-style-type: none"> Inadequate funding to effectively and efficiently fulfill mandate 	<ul style="list-style-type: none"> Secure funding from the National Treasury to fill prioritised positions on a phased-in approach over MTSF period.
2. Access to information promoted	<ul style="list-style-type: none"> Delay in the operationalisation of POPIA 	<ul style="list-style-type: none"> Develop and implement a Separation Plan from the DOJ&CD covering the Financial and Human Resource areas of the Regulator.
	<ul style="list-style-type: none"> Delay in the full-establishment of the Administration of the Regulator 	<ul style="list-style-type: none"> Finalisation of the complete Organisational Structure Model.
	<ul style="list-style-type: none"> Inadequate funding to effectively and efficiently fulfill mandate 	<ul style="list-style-type: none"> Secure funding from the National Treasury to fill prioritised positions on a phased-in approach over the MTSF period.

11. Public Entities reporting to the Regulator

None

PART D: TECHNICAL INDICATOR DESCRIPTION

Outcome1: Personal Information promoted, protected and respected

Indicator Title	Number of Complaints received
Definition	The number of complaints received in relation to personal information violations provided for in POPIA
Source of data	Complaints Register
Method of Calculation / Assessment	Simple count of complaints recorded
Means of verification	Complaints Handling System clearly outlines the process to be followed to lodge complaints and determine the turnaround time for processing them
Assumptions	All complaints submitted will be within the jurisdiction of the Regulator and the decisions taken will be accepted by the affected parties and in cases of disputes, the available mechanisms will be used
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation type	Non-cumulative
Reporting Cycle	Quarterly
Desired performance	Reduction in the number of complaints received
Indicator Responsibility	Executive: POPIA

Indicator Title	Percentage of stakeholders who know about the existence of the Regulator
Definition	Percentage of stakeholders who know about the existence of the Regulator.
Source of data	Report of the Survey conducted
Method of Calculation and assessment	Simple counting of statistics reported from the survey
Means of Verification	Interrogate the reported statistics and documents used during the survey.
Assumptions	The survey used a representative sample and the results are reliable and valid
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Reporting Cycle	Annually
Desired performance	Increase in the awareness of the existence of the Regulator
Indicator Responsibility	Executive: Education and Communication

Outcome 2: Access to Information promoted

Indicator Title	Percentage increase of compliance with section 32 of PAIA
Definition	The percentage level of compliance with section 32 of PAIA by public bodies
Source of data	Compliance Register kept by the South African Human Rights Commission (SAHRC)
Method of Calculation / Assessment	Simple count
Means of verification	Section 32 Reports that are submitted annually by the Information Officers of public bodies
Assumptions	Each public body has an Information Officer and complies with PAIA
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation type	Non-cumulative
Reporting Cycle	Quarterly
Desired performance	Increased percentage of compliance with section 32 of PAIA by public bodies
Indicator Responsibility	Executive: PAIA

PART E: LIST OF ACRONYMS AND ABBREVIATIONS

AI	Artificial Intelligence
AO	Accounting Officer
Adv.	Advocate
APP	Annual Performance Plan
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CoE	Compensation of Employees
DIO	Deputy Information Officer
DoJ & CD	Department of Justice and Constitutional Development
EE	Employment Equity Plan
ENE	Estimates of National Expenditure
IO	Information Officer
4IR	Fourth Industrial Revolution
Minister	Minister of Justice and Correctional Services
MoC	Memorandum of Cooperation
MTEF	Medium Term Expenditure Framework
MTSF	Medium Term Strategic Framework
NDP	National Development Plan
PAIA	Promotion of Access to Information Act
POPIA	Protection of Personal Information Act
PP	Public Protector
Regulator	Information Regulator
SAHRC	South African Human Rights Commission

