



an agency of the
Department of Sport, Arts and Culture

NATIONAL MUSEUM
PROTECTION OF PERSONAL INFORMATION
'POPI ACT' POLICY

DEFINITIONS

Below definitions are relevant to this Policy and are extracted from the POPI Act.

“biometrics”	means a technique of personal identification that is based on physical, physiological or behavioural characterisation including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition;
“child”	means a natural person under the age of 18 years who is not legally competent, without the assistance of a competent person, to take any action or decision in respect of any matter concerning him- or herself;
“code of conduct”	means a code of conduct issued in terms of Chapter 7 of the Act
“competent person”	means any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child
“consent”	means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information
“data subject”	means the person to whom personal information relates
“de-identify”	in relation to personal information of a data subject, means to delete any information that— (a) identifies the data subject; (b) can be used or manipulated by a reasonably foreseeable method to identify the data subject; or (c) can be linked by a reasonably foreseeable method to other information that identifies the data subject,
“de-identified”	and “de-identified” has a corresponding meaning
“direct marketing”	means to approach a data subject, either in person or by mail or electronic communication, for the direct or indirect purpose of – (a) promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject; or (b) requesting the data subject to make a donation of 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

“filing system”	means any structured set of personal information, whether centralised, decentralised or dispersed on a functional or geographical basis, which is accessible according to specific criteria;
“person”	means a natural person or a juristic person;
“personal information”	<p>means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—</p> <p>(a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;</p> <p>(b) information relating to the education or the medical, financial, criminal or employment history of the person;</p> <p>(c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;</p> <p>(d) the biometric information of the person;</p> <p>(e) the personal opinions, views or preferences of the person;</p> <p>(f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;</p> <p>(g) the views or opinions of another individual about the person; and</p> <p>(h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;</p>
“prescribed”	means prescribed by regulation or by a code of conduct;
“private body”	<p>means—</p> <p>(a) a natural person who carries or has carried on any trade, business or profession, but only in such capacity;</p> <p>(b) a partnership which carries or has carried on any trade, business or profession; or</p> <p>(c) any former or existing juristic person, but excludes a public body;</p>

“processing”	means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including— (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; (b) dissemination by means of transmission, distribution or making available in any other form; or (c) merging, linking, as well as restriction, degradation, erasure or destruction of information;
“professional legal adviser”	means any legally qualified person, whether in private practice or not, who lawfully provides a client, at his or her or its request, with independent, confidential legal advice;
“Promotion of Access to Information Act”	means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
“public body”	means— (a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or (b) any other functionary or institution when— (i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or (ii) exercising a public power or performing a public function in terms of any legislation;
“public record”	means a record that is accessible in the public domain and which is in the possession of or under the control of a public body, whether or not it was created by that public body;
“record”	means any recorded information— (a) regardless of form or medium, including any of the following: (i) Writing on any material; (ii) information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both,

	<p>or other device, and any material subsequently derived from information so produced, recorded or stored;</p> <p>(iii) label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;</p> <p>(iv) book, map, plan, graph or drawing;</p> <p>(v) photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced; (b) in the possession or under the control of a responsible party;</p> <p>(c) whether or not it was created by a responsible party; and</p> <p>(d) regardless of when it came into existence;</p>
“Regulator”	means the Information Regulator established in terms of section 39;
“re-identify”	, in relation to personal information of a data subject, means to resurrect any information that has been de-identified, that—
	<p>(a) identifies the data subject;</p> <p>(b) can be used or manipulated by a reasonably foreseeable method to identify the data subject; or</p> <p>(c) can be linked by a reasonably foreseeable method to other information that identifies the data subject, and “re-identified” has a corresponding meaning;</p>
“Republic”	means the Republic of South Africa;
“responsible party”	means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information;
“restriction”	means to withhold from circulation, use or publication any personal information that forms part of a filing system, but not to delete or destroy such information;
“special personal information”	means personal information as referred to in section 26;
“this Act”	includes any regulation or code of conduct made under this Act;
“unique identifier”	means any identifier that is assigned to a data subject and is used by a Museum for the purposes of the operations of that Museum and that

	uniquely identifies that data subject in relation to that responsible party.
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Contents

1. PREAMBLE.....	7
2. PURPOSE	7
3. SCOPE AND APPLICABILITY	7
4. PROCESSING OF PERSONAL INFORMATION.....	8
5. PROCESSING OF SPECIAL PERSONAL INFORMATION	8
6. FUNDRAISING AND MARKETING COMMUNICATIONS	9
7. PROCESSING OF PERSONAL INFORMATION ABOUT CHILDREN	10
8. USE OF CCTV AT THE MUSEUM PREMISES	10
9. STORING OF USERS PERSONAL DATA (SECTION 14 OF THE ACT)	10
10. CONTROL OF USERS PERSONAL DATA.....	11
11. WEBSITE PRIVACY AND COOKIES POLICY.....	12
12. LINKS TO THIRD PARTY WEBSITES	13
13. DATA SECURITY	13
14. PROMOTION OF ACCESS TO INFORMATION ACT	14
15. DUTIES AND RESPONSIBILITIES OF THE INFORMATION OFFICER	14
16. TRAINING AND AWARENESS	14
17. APPROVAL	15
18. EFFECTIVE DATE.....	15
19. DECISION NUMBER.....	15

1. PREAMBLE

Parliament assented to The Protection of Personal Information Act in 2013 “POPI Act”. The POPI Act commencement date was 1 July 2020 with a one year grace period to comply which ends on 30 June 2021. POPI Act has been enacted:

- To promote the protection of personal information processed by public and private bodies; to introduce certain conditions so as to establish minimum requirements for the processing of personal information;
- To provide for the establishment of an Information Regulator to exercise certain powers and to perform certain duties and functions in terms of this Act and the Promotion of Access to Information Act, 2000;
- To provide for the issuing of codes of conduct;
- To provide for the rights of persons regarding unsolicited electronic communications and automated decision making; and
- To regulate the flow of personal information across the borders of the Republic; and to provide for matters connected therewith.

2. PURPOSE

The purpose of this policy is to detail how the Museum intends to comply and give effect to the objectives of the POPI Act Policy. The Museum is a Responsible Part as defined and is required to determine the purpose of and means for processing personal information. Management is responsible to embed these policy provisions into the daily operations and to ensure that these requirements are documented and implemented in all business processes. This policy must be read very closely with the Museum’s PAIA Manual.

3. SCOPE AND APPLICABILITY

The policy applies to the processing of personal information entered in a record by making use of automated or non-automated means. This Policy is applicable to the Council, Committees, Management, employees and service providers of the Museum. The Museum will adhere to this policy concerning the management of all personal information received from, but not limited to natural persons, employees, clients, suppliers, agents, representatives, partners to ensure compliance is applied to this Act and the applicable regulations and rules relating to the protection of personal information is adhered to.

4. PROCESSING OF PERSONAL INFORMATION

4.1. The Museum will only process personal information lawfully and in a reasonable manner that does not infringe the privacy of the data subject;

4.2. Personal information will only be processed if, given the purpose for which it is processed, it is adequate, relevant and not excessive;

4.3. The data subject consents to the processing of their personal information;

4.4. The processing is necessary to carry out the function or activity of the Museum and for the conclusion or performance of a contract to which the data subject is party;

4.5. The processing complies with an obligation imposed by law on the responsible party;

4.6. The processing protects a legitimate interest of the data subject;

4.7. The processing is necessary for the proper performance of a public law duty by the Museum.

4.8. Processing is necessary for pursuing the legitimate interests of the Museum or of a third party to whom the information is supplied;

4.9. In most instances, the Museum will collect the personal information directly from the data subject unless:

4.9.1. The information is contained in or derived from a public record or has deliberately been made public by the data subject;

4.9.2. The data subject or a competent person where the data subject is a child has consented to the collection of the information from another source;

4.9.3. Collection of the information from another source would not prejudice a legitimate interest of the data subject; and

4.9.4. To maintain the legitimate interests of the Museum or of a third party to whom the information is supplied.

5. PROCESSING OF SPECIAL PERSONAL INFORMATION

5.1. In compliance with Section 26 of the POPI Act, the Museum *will not* process any special personal information, save for in the circumstances listed above paragraph 4.3;

5.2. Special personal information is defined in Section 26 of the POPI Act as information concerning:

- 5.2.1. Religious or philosophical beliefs
- 5.2.2. Race or ethnic origin
- 5.2.3. Trade union membership
- 5.2.4. Political persuasion
- 5.2.5. Health or sex life
- 5.2.6. Biometric information about data subject
- 5.2.7. Alleged criminal behaviour of data subject

5.3. The Museum will only process special personal information where:

- 5.3.1. Processing is carried out with the consent of a data subject;
- 5.3.2. Processing is necessary for the establishment, exercise or defence of a right or obligation in law;
- 5.3.3. The Museum conducts verification of criminal records of employees and processes information concerning personnel in order to manage health and safety risk to property and people in the workplace in accordance with the rules established in compliance with labour legislation;
- 5.3.4. Information has deliberately been made public by the data subject; and
- 5.3.5. Processing is for historical, statistical or research purposes to the extent that—
 - 5.3.5.1. The purpose serves a public interest and the processing is necessary for the purpose concerned; or
 - 5.3.5.2. It appears to be impossible or would involve a disproportionate effort to ask for consent,
 - 5.3.5.3. And sufficient guarantees are provided for to ensure that the processing does not adversely affect the individual privacy of the data subject to a disproportionate extent.

6. FUNDRAISING AND MARKETING COMMUNICATIONS

The Museum does not conduct any direct marketing by means of unsolicited electronic communications. The processing of personal information of a data subject for the purpose of direct marketing by means of any form of electronic communication is only done with the consent of the data subject.

7. PROCESSING OF PERSONAL INFORMATION ABOUT CHILDREN

The Museum will not process personal information concerning a child unless it is carried out with the prior consent of a competent person.

8. USE OF CCTV AT THE MUSEUM PREMISES

The Museum's premises are protected by CCTV and visitors may be recorded when they visit. The CCTV system is part of the security system and it provides a safe and secure environment for the employees and patrons of the Museum. CCTV footage will only be accessed by authorised caretaker staff and is stored for up to 30 days, unless flagged for investigation.

9. STORING OF USERS PERSONAL DATA (SECTION 14 OF THE ACT)

- 9.1. Subject to legislation (PFMA etc.) records of personal information will not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, unless—
 - 9.1.1 retention of the record is required or authorised by law;
 - 9.1.2. the Museum reasonably requires the record for lawful purposes related to its functions or activities;
 - 9.1.3. retention of the record is required by a contract between the parties thereto; or
 - 9.1.4. The data subject or a competent person where the data subject is a child has consented to the retention of the record.
- 9.2. Records of personal information may be retained by the Museum for periods in excess of those contemplated in for historical, statistical or research purposes if the Museum has established appropriate safeguards against the records being used for any other purposes.
- 9.3. If the Museum has used a record of personal information of a data subject to make a decision about the data subject, the Museum will —
 - 9.3.1. retain the record for such period as may be required or prescribed by law or a code of conduct; or
 - 9.3.2. if there is no law or code of conduct prescribing a retention period, retain the record for a period which will afford the data subject a reasonable opportunity, taking all considerations relating to the use of the personal information into account, to request access to the record.

- 9.4. The Museum will destroy or delete a record of personal information or de-identify it as soon as reasonably practicable after the Museum is no longer authorised to retain the record.
- 9.5. The Museum will destroy or delete a record of personal information in a manner that prevents its reconstruction in an intelligible form. The Museum uses shredding facilities.
- 9.6. The Museum will restrict processing of personal information if—
 - 9.6.1. its accuracy is contested by the data subject, for a period enabling the Museum to verify the accuracy of the information;
 - 9.6.2. the Museum no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
 - 9.6.3. The processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
 - 9.6.4. The data subject requests to transmit the personal data into another automated processing system.
- 9.7. Personal information, with the exception of storage, will only be processed for purposes of proof, or with the data subject's consent, or with the consent of a competent person in respect of a child , or for the protection of the rights of another natural or legal person or if such processing is in the public interest.
- 9.8. Where processing of personal information is restricted, the Museum must inform the data subject before lifting the restriction on processing.

10. CONTROL OF USERS PERSONAL DATA

- 10.1. The data subject or competent person may withdraw his, her or its consent at any time. This will not affect the lawfulness of the processing of personal information before such withdrawal or the processing of personal information.
- 10.2. A data subject may object, at any time, to the Museum's processing of personal information—
 - 10.2.1. In the prescribed manner, on reasonable grounds relating to his, her or its particular situation, unless legislation provides for such processing; or
 - 10.2.2. for purposes of direct marketing other than direct marketing by means of unsolicited electronic communications.

- 10.3. If a data subject objects to the processing of personal information the Museum may no longer process the personal information. This will limit the services which the Museum can provide to that person.

11. WEBSITE PRIVACY AND COOKIES POLICY

11.1. The Museum websites use local storage (such as cookies) in order to provide users with the best possible experience and to allow users to make use of certain functionality. The purpose of the Website Privacy and Cookies Policy is to:

11.1.1. Inform our stakeholders about what information the Museum might collect about you when you visit our website.

11.1.2. It will also explain how the Museum might use that information and when we might use your details to contact you.

11.1.3. Further it provides useful explanations about what information of yours the Museum might share with others.

11.1.4. It informs you about your choices about the personal information you give to the Museum.

11.2. **Cookies** are small files that are sent from websites to users' computers and store the user's information to optimize a company's site, make visiting the site again easier, and sending ads. We may use the following cookies:

11.2.1. **First-party cookies**- These cookies are set by the website you're visiting. And only that website can read them.

11.2.3. **Third-party cookies**- These cookies are set by someone other than the owner of the website you're visiting. Some Museum web pages may also contain content from other sites like YouTube or Flickr, which may set their own cookies. Also, if you share a link to a Museum page, the service you share it on (for example, Facebook) may set a cookie on your browser. We have no control over third-party cookies - you can turn them off, but not through us.

11.2.4. **Session cookies**- These cookies only last as long as your online session, and disappear from your computer or device when you close your browser (e.g. Internet Explorer).

11.2.5. **Persistent cookies**- These cookies stay on your computer or device after your browser has been closed and last for a time specified in the cookie. We use persistent cookies when we need to know who you are for more than

one browsing session. For example, we use them to remember your preferences for the next time you visit.

11.2.6. **Strictly necessary cookies-** These cookies let you use all the different parts of the Museum's website. Without them, services that you've asked for can't be provided. Also, as a public service, we collect data from you to help us understand how people are using our Website, so we can make it better.

11.2.7. **Functional cookies-** These help us personalise the Museum's website for you by remembering your preferences and settings.

11.3. This Website Privacy and Cookies Policy will be displayed on the Museum's website. It must be read in conjunction with the Museum's POPI Act policy.

12. LINKS TO THIRD PARTY WEBSITES

The Museum's main website is located at www.nasmus.co.za. The publications website is located at www.nationalmuseumpublications.co.za. The Artbank of South Africa's website is located at www.artbanksa.org. These may from time to time contain links to external websites of other organisations. The Museum is not responsible for the content or functionality of any such linked websites.

If a third party website requests personal data from users, the information provided will not be covered by this policy. It is recommended that users read the privacy notice of any other website before providing any personal information.

13. DATA SECURITY

13.1. The Museum shall secure the integrity and confidentiality of personal information in its possession through the implementation of appropriate measures to prevent; the loss, damage and unauthorised destruction of personal Information; and unlawful access which leads to processing of personal Information without the consent of the data subject.

13.2. The Museum has appropriate IT Policies to govern the IT environment.

13.3. All electronic communication of personal data shall be encrypted.

13.4. Should the Museum employ third party organisations to process personal information on our behalf, we shall enter into a written agreement with that

organisations which will outline the Operators measures to ensure the protection of personal information in their possession.

13.5. Should the Museum experience a data breach involving personal data, the Museum will make every effort to notify the data subject and the Information Regulator.

13.6. Disciplinary action will be taken against any employee who wilfully or negligently handles personal information.

14. PROMOTION OF ACCESS TO INFORMATION ACT

The Museum will maintain the documentation of all processing operations under its responsibility as referred to in section 14 or 51 of the Promotion of Access to Information Act and in compliance with its PAIA Policy.

15. DUTIES AND RESPONSIBILITIES OF THE INFORMATION OFFICER

The Museum has appointed the CEO as Information Officer who has taken up her duties in terms of this Act. The Museum has applied to register the Information Officer with the Information Regulator. In terms of Section 55 of the POPI Act, an information officer's responsibilities include—

15.1. The encouragement of compliance, by the Museum, with the conditions for the lawful processing of personal information;

15.2. Dealing with requests made to the Museum pursuant to the POPI Act;

15.3. Working with the Information Regulator in relation to investigations conducted pursuant to Chapter 6 in relation to the Museum;

15.4. Otherwise ensuring compliance by the body with the provisions of this Act.

16. TRAINING AND AWARENESS

The Museum has trained all Managers on POPI Act. Managers shall ensure that all their staff members are trained on how to process personal information in accordance with the POPI Act. The information Officer shall be responsible to provide such training and general awareness. Head of Divisions shall appoint POPI Act Champions to assist with implementation of POPI Act in the respective divisions.

17. APPROVAL

The Policy was approved by Council on 27 August 2021.

18. EFFECTIVE DATE

Date of approval of Final policy by Council.

19. DECISION NUMBER

1914

Final Approval Decision Number

A handwritten signature in black ink, appearing to read 'J. Shaw', is written over the text 'Final Approval Decision Number'.

CHAIRPERSON OF COUNCIL

DATE: 27 August 2021