



UNASHAMEDLY ETHICAL

PROTECTION OF
PERSONAL INFORMATION POLICY

Department	
HR	
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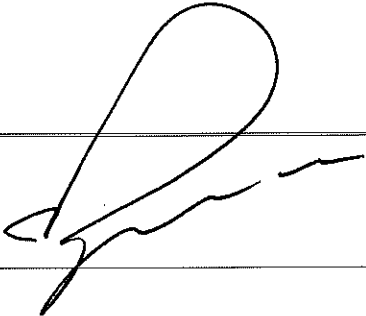
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1. INTRODUCTION

The Protection of Personal Information Act, Act no. 4 of 2013 (hereinafter referred to as "POPI Act") balances an individual's right to privacy by regulating and protecting the processing of personal information. Power Construction collects and utilises certain personal information of individuals, with whom it deals with, for the purposes operating its business. Power Construction therefore recognises that such personal information must be handled appropriately however it may be collected, stored and processed, whether on paper, electronically or other means.

To ensure that personal information is processed lawfully, the following conditions (as set out in the POPI Act) must be met:

- a) Accountability;
- b) Processing limitation;
- c) Purpose specification;
- d) Further processing limitation;
- e) Information quality;
- f) Openness;
- g) Security safeguards; and
- h) Data subject participation.

2. PURPOSE

This policy provides guidance in respect of the processing of personal information and ensuring compliance with the POPI Act as well as the individual's constitutional right to privacy. It further aims to protect individuals against the unlawful collection, retention, dissemination and use of personal information.

3. APPLICATION

This policy applies to all employees of Power Construction (including all employees of the Power Group (and/or Power Developments) as well as third parties who have been granted access to or given their personal information within or via Power Construction.

4. DEFINITIONS

4.1. **Power Construction** means all Companies within the Power Group, which includes Power Construction and Power Development.

4.2. **data subject** means the person to whom personal information relates to.

4.3. **person** means a natural person or a juristic person.

4.4. **personal information** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- 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;
- b) information relating to the education or the medical, financial, criminal or employment history of the person;
- c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- d) the biometric information of the person;
- e) the personal opinions, views or preferences of the person;
- 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;
- g) the views or opinions of another individual about the person; and
- 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

4.5. processing means any operation or activity or any set of operations, whether or not 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; or
- merging, linking, as well as restriction, degradation, erasure or destruction of information;

4.6. 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

4.7. 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, or other device, and any material subsequently derived from information so produced, recorded or stored;
- 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;
- iv. book, map, plan, graph or drawing;
- 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;

c) whether or not it was created by a responsible party; and

d) regardless of when it came into existence

4.8. special personal information means personal information concerning—

4.8.1. 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; or

4.8.2. the criminal behaviour of a data subject to the extent that such information relates to—

- (i) the alleged commission by a data subject of any offence; or
- (ii) any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings.

5. CONDITIONS FOR LAWFUL PROCESSING OF PERSONAL INFORMATION

The POPI Act provides for the following conditions to be met in respect of processing personal information:

5.1. Accountability

All Power Construction employees who are responsible for processing personal information must ensure that s/he and Power Construction is compliant with the conditions, as set out in the POPI Act and clauses 5.2 to 5.8 below, when processing personal information.

5.2. Processing limitations

5.2.1 All personal information must be processed lawfully and in a reasonable manner that does not infringe on the rights of the data subject.

5.2.2 Personal information cannot be collected / processed if it is not required for a specific reason / purpose. In requesting personal information, it is imperative that it is obtained for a specific reason (relevant), adequate and is not excessive.

5.2.3 Personal information can only be processed with the consent of the data subject and when it is for the application of a vacancy and/ or the conclusion or performance of a contract. It may further be processed if it for the legitimate interest of Power Construction and/ or if the processing protects the legitimate interest of the data subject. This has been included in the new contracts of employment and current employees have been or will be provided with an

addendum in this regard. The collection of additional personal information can only be collected after the individual has completed the consent form for same.

5.3. Purpose specification

- 5.3.1 Where personal information is collected, it must be for a specific, explicitly defined and lawful purpose which is related to function or activity of the party collecting the information.
- 5.3.2 Personal information may not be retained for periods longer than is required and must be destroyed or deleted as soon as reasonably possible after the purpose for which it was processed has expired.
- 5.3.3 It is acknowledged that legislation may require Power Construction to retain certain personal information and/ or records after termination of an employee/ contractor/ supplier/ customer and therefore, such information may be retained for the period prescribed by such legislation.
- 5.3.4 The following is a guideline for retention periods in the absence of a specific business case supporting a longer period.

TYPE OF PERSONAL INFORMATION	DURATION OF RETENTION
Application forms/ References and/ or CV's	Duration of employment / 12 months after communicating to unsuccessful candidates
Payroll and tax information	7 years after termination of employment
All leave records	3 years after termination of employment
Remuneration information	7 years after termination of employment
Annual appraisal/assessment records	5 years after termination of employment
Records relating to promotion, transfer, training, disciplinary matters	1 year from termination of employment
References given / information to enable reference to be provided	1 year from reference/end of employment
Summary of record of service e.g., name, position held, dates of employment	5 years after termination of employment
Records relating to accident/injury at work	5 years after termination of employment
Tender / customer documentation	5 years after the completion of the project
Records of Directors and past Directors	7 years after the resignation of the Director

- 5.3.5 Where personal information is to be retained for longer than the stated retention period, the designated / responsible individual must document any applicable justification for extending this period which is submitted to the Information Officer.
- 5.3.6 The destruction of personal information must be conducted in a manner which makes it impossible for another party to recreate the documentation and access personal information of a data subject. This will require the responsible Power Construction representative to either permanently delete electronic information and / or shred such information.

5.4. Further processing limitation

- 5.4.1 Personal information will be collected/ processed for a specific reason/ purpose and therefore any further processing must be compatible with the initial reason for obtaining such

information. Should the purpose/ reason for further processing of such personal information be for a different reason than initially acquired, the data subject must provide written consent, if the information is not publicly available.

- 5.4.2 Personal information may only be utilised for historical, statistical and research purposes if it is published in an unidentifiable form.

5.5. Information quality

Any personal information which is processed must be complete, accurate and not misleading. Personal information must, where necessary, be updated to ensure that it is relevant in terms of the purpose for which it is collected. For example, an employee's residential address must be updated when s/he moves as it was obtained for the purposes of Power Construction being able to serve documents on the employee.

5.6. Openness

The party responsible for the collection of personal information, must inform the data subject of the information being collected and/ or where such information has been collected as well as the reason for the collection of such information.

5.7. Security safeguards

- 5.7.1 All personal information within Power Construction and/ or its employees' possession must be kept confidential and the integrity of such information must be secured. This includes ensuring that such information is protected from loss of, damage to or unauthorised destruction as well as the unlawful access to or processing of personal information. Employees must therefore ensure that:

5.7.1.1 all personal information stored on electronic devices are password protected (this includes the device and the actual document);

5.7.1.2 hard copies of personal information are securely locked away;

5.7.1.3 personal information that is no longer required is deleted or destroyed.

- 5.7.2 Any Power Construction employee who is responsible for the processing of personal information must ensure that such information is not left unattended and must ensure that it is securely locked away.

5.7.3 Emails and Faxes

5.7.3.1 Employees must pay particular attention to the risks of transmitting confidential/ personal information by email or fax.

5.7.3.2 Ensure that all copies of email and fax messages received, are held securely.

5.7.3.3 Information is not stored on the fax machine, which can be accessed by parties who are not authorised to have access to such information.

5.7.3.4 Permission to send personal information is obtained from the data subject (for example confirmation of employment).

5.7.3.5 Be aware of the risks of sending confidential, personal information by email or fax.

- 5.7.4 Information can only be disclosed to authorised individuals and the data subject must provide written consent for such information to be disclosed to a third party.

- 5.7.5 Access to personal information is for work purposes only and should only be accessed for legitimate purposes.

- 5.7.6 Where a third party is, for legislative, audit purposes and/ or processing purposes, granted with access to personal information, they will be required to sign a confidentiality agreement which will include the requirement to comply with the requirements of the POPI Act.

5.8. Data subject participation

- 5.8.1 A data subject has the right (on proof of identification that s/he is the data subject) request confirmation and/ or a record of and/ or description of any personal information related to the data subject within Power Construction's possession.

- 5.8.2 The data subject may request that Power Construction corrects, deletes and/ or destroys any information that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully. Such requests must be submitted in writing to the Human Resources Department or the Information Officer, with a copy of adequate identification, which will be actioned as soon as reasonably possible.
- 5.8.3 The data subject also has the right to request that Power Construction destroys or deletes any personal information that Power Construction is no longer permitted to retain. This must be actioned as soon as reasonably possible.

6. PROCESSING OF SPECIAL PERSONAL INFORMATION

6.1. The processing of special personal information is prohibited unless:

- The data subject provided written consent;
- It is necessary for the establishment, exercise or defence of a right or obligation in law;
- processing is necessary to comply with an obligation of international public law;
- processing is for historical, statistical or research purposes to the extent that the purpose serves a public interest, or it appears to be impossible or would involve a disproportionate effort to ask for consent,
- information has deliberately been made public by the data subject.

6.2. Further to clause 6.1 above, the following applies to the processing of special personal information:

6.2.1. Religious or philosophical belief

All individuals have the right to their own religious and/ or philosophical beliefs and such information will not be processed by Power Construction and/ or its employees. Power Construction will not discriminate or process information in respect of a person/ employee's religious or philosophical beliefs.

6.2.2. Race or ethnic origin

Information about a person/ employee/ third party's race and/ or ethnic origin will only be processed for the purposes of complying with relevant laws and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination. This will include compliance and for the purposes of the Employment Equity Act, the Broad-Based Black Economic Empowerment Act and Affirmative Action measures.

6.2.3. Trade union membership

Power Construction and its employees who have access to information about trade union membership will not disclose such information to a third party and/ or will only disclose such information to facilitate a provision in the Labour Relations Act and/ or if it is required in terms of a court order, arbitration award and/ or as any other relevant legislation.

6.2.4. Political persuasion

Power Construction and/ or its employees will not process any information in respect of any employee and/ or individual in respect of their political persuasion.

6.2.5. Health or sex life

Information about a person/ employee's health and/ or sex life can only be processed if such processing is necessary for the implementation of the provisions of laws, pension regulations or collective agreements which create rights dependent on the health or sex life of the data subject.

Furthermore, information about an employee/ person's health, medical condition/s and/ or ability to work can only be processed with the employee/ person's consent and where it is related to his/ her position.

In the event that medical information is required, such information will only be obtained with the persons' written consent and must be in accordance with the relevant employment legislation (which includes but is not limited to the Labour Relations Act, Employment Equity Act, etc.).

6.2.6. Criminal behaviour or biometric information

Information about a person/ employee's criminal behaviour/ record and/ or biometric information can only be processed once the person/ employee has given his/ her written consent and where such information is an inherent requirement of the job. Such information can only be processed by a party who is accredited to process and authorised to provide such information.

7. USING PERSONAL DETAILS FOR DIRECT MARKETING

- 7.1. All individuals have the right to prevent their personal information being used for direct marketing (which includes communications sent by post, over the phone, via email and text) purposes. Therefore, Power Construction and/ or its employees will not use or distribute personal information for the purposes of direct marketing.
- 7.2. In the event of Power Construction sharing a person/s personal information for the purposes of direct marketing and/ or to any third party, the person must provide his/ her written consent to share such information.

8. THE INFORMATION OFFICER

- 8.1. Nico van Wyk (designated HR Manager) has been appointed as the Information Officer and has been registered with the Regulator.
- 8.2. The Information Office is responsible for:
 - 8.2.1 The encouragement of compliance with the conditions for the lawful processing of personal information.
 - 8.2.2 Dealing with requests made to Power Construction to this POPI Act.
 - 8.2.3 Working with the Regulator in relation to investigations conducted at Power Construction.
 - 8.2.4 Ensuring compliance by the body with the provisions of POPI Act.
 - 8.2.5 To monitor any changes to legislation, practice and technology, and ensure that the minimum standards in terms of this policy is updated where necessary.
 - 8.2.6 Ensure that Power Construction has access to legislative updates and any guidance related to data protection legislation.
 - 8.2.7 Oversight of the data protection breaches, including decisions as to whether or not affected individuals should be notified.
 - 8.2.8 Have oversight of all breaches and liaise with HR and/ or the Managing Director to ensure that any deficiencies in the control framework are addressed.

9. TRAINING AND AWARENESS

- 9.1. Employees who deal with personal information must undergo training, at least once every two (2) years and/ or whenever there is a significant change to POPI Act and/ or any relevant regulations.
- 9.2. Senior management must be able to demonstrate, with documentary evidence, the completion or participation in personal information protection training and awareness exercises by all relevant, in-scope employees.

10. BREACH OF POPI Act

In the event that any person breaches this policy and/ or the requirements of POPI Act, such breaches must be reported to the Information Officer and the HR department and may result in disciplinary action which may ultimately result in the termination of his/ her services. Such a breach may also be reported to the Regulator.