



NPOs & POPIA – 12-MONTH CHECK-UP

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ABOUT NPO LEGAL ISSUES:

This is an electronic newsletter published by: **RICARDO WYNGAARD ATTORNEYS** which is aimed at updating the non-profit sector on relevant legal issues.

IN THIS EDITION:

‘THE INFORMATION OFFICER AND NPOs’

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RICARDO WYNGAARD ATTORNEYS is a law practice that specialises in rendering advice and assistance on non-profit law and governance.

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A baby’s 12-month check-up is critical to determine whether key developmental milestones are on track. This check-up will, amongst other, cover communication skills, problem solving skills, social skills, safety measures, etc.

It is 12 months since Responsible Parties (i.e. NPOs in this context) are expected to comply with the provisions of the Protection of Personal Information Act (POPIA). Now is a good time for NPOs to do a quick check-up on some key POPIA-compliance milestones.

Registration of the Information Officer

One of the key milestones that should have been reached by now is the **registration of the NPO’s Information Officer**. The Information Officer is defined as the head of the body, who would ordinarily be the CEO or similar officer or someone authorised by that officer. Section 55(2) of POPIA provides that the Information Officer can only take up his or her duties in terms of POPIA after they have been *registered* with the Information Regulator.

The Information Regulator, in its [Guidance Note on Information Officers and Deputy Information Officers](#) provides that it is a duty of the Responsible Party (NPO) to ensure that the Information Officer is registered with the Regulator. The Regulator’s Guidance Note further suggests that: “Any person authorised as an Information Officer should be at an executive level or equivalent position. This means that only an employee of a private body (NPO) at a level of management and above should be considered for authorisation as an Information Officer of that body (NPO).”

Duties and Responsibilities of the Information Officer

The duties and responsibilities of the Information Officer are listed in section 55 of POPIA, which include:

1. The encouragement of compliance by the NPO with the conditions for lawful processing;
2. Dealing with requests made to the body in terms of POPIA; and
3. Ensuring compliance with POPIA by the NPO Act.

[Regulation 4](#) of POPIA provides that Information Officers must ensure, amongst other, that:

- a) A compliance framework is developed and maintained;
- b) A personal information impact assessment is done;
- c) A PAIA manual is developed and maintained;
- d) Internal measures are developed to process requests for information; and
- e) Internal awareness sessions are conducted on POPIA, as required.

The Information Regulator may, annually, request the Information Officer of a private body (NPO), to provide information about requests for access to records of that NPO to the Regulator.

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12-MONTH CHECK-UP QUESTIONNAIRE:

QUESTIONS	YES	NO	IN PROGRESS
Information Officer has been registered?			
Is the Information Officer aware of his or her duties and responsibilities?			
Has the Information Officer developed a POPIA Compliance Framework?			
Has the Information Officer ensured that a PI impact assessment was done?			
Has the Information Officer ensured that internal measures have been developed?			
Have internal awareness sessions been conducted?			
Have all reasonably foreseeable risks to personal information have been identified?			
Has the NPO established and maintained appropriate safeguards against risks?			
Does the NPO regularly verify that those safeguards are effectively implemented?			

If the answer to any of the questions is 'no', it is imperative that the NPO should put measures in place to facilitate compliance. Measures would ordinarily include the introduction of: training sessions, policies, protocols, consent forms, safeguards, risk management measures, reports and communication to data subjects.

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