

Data Access & Protection Manual

TORBURNLEA

This document is made publicly available in terms of **Section 51** of the Promotion of Access to Information Act, 2 of 2000, as amended by the Protection of Personal Information Act, 4 of 2013, and is part of the **Compliance Framework** compiled in terms of Regulation 4 of the Information Regulator Regulations 1383, 14 Dec 2018, relating to the Protection of Personal Information, under Section 112(2) of the Protection of Personal Information Act, 4 Of 2013.

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1. **Section 10** of the Promotion of Access to Information Act, 2 of 2000, as amended by Section 110 of the Protection of Personal Information, 4 of 2013 and its attached Schedule, with regards to the “Guide on how to use the Promotion of Access to Information Act 2 of 2000” initially published by the South African Human Rights Commission (“Section 10 Guide”) but now the responsibility of the Information Regulator.
2. **Section 51** of the Promotion of Access to Information Act, 2 of 2000, as amended by Section 110 of the Protection of Personal Information, 4 of 2013 and its attached Schedule, in particular with regards to the PAIA manual requirements and the added requirements in terms of the protection of personal information.
3. **Regulation 4(c)** of the Information Regulator Regulations 1383, 14 Dec 2018, relating to the Protection of Personal Information, under Section 112(2) of the Protection of Personal Information Act, 4 Of 2013 - “a manual is developed, monitored, maintained and made available as prescribed in sections 14 and 51 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)”
4. Any mention of “personal information” and “processing” throughout this document refers to the definitions stipulated in the Protection of Personal Information Act, 4 of 2013.

1. Introduction

1. Access to Information

In terms of your constitutional right of access to information and the **Promotion of Access to Information Act** (2 of 2000), you may request access to any information about us or held by us, subject to these conditions:

- 1.1. You need that information to exercise or protect your rights;
- 1.2. The legal grounds for refusal don't apply to your request;
- 1.3. You have duly completed **Form C** (justice.gov.za/forms/form_paia.htm) and sent to us by post, email or fax;
- 1.4. You have paid the prescribed fee(s).

2. Personal Information

In terms of your constitutional right to privacy and the **Protection of Personal Information Act** (4 of 2013), you may at any time, free of charge, request us to confirm whether or not we process personal information about you, and a full description of that information.

- 2.1. To object, use **Form 1** : Objection to the Processing of Personal Information
- 2.2. To request a correction or deletion, use **Form 2** : Request for Correction or Deletion of Personal Information or Destroying or Deletion of Record of Personal Information

2. Section 51(1)(a) PAIA

AS AMENDED BY POPIA

2.1. Introduction

Torburnlea is a privately held company registered in South Africa, operating as guest accommodation.

2.2. Duly authorised persons

The PAIA and POPIA “Information Officer” for Torburnlea may be contacted at stay@torburnlea.co.za

2.3. Company contact details

COMPANY NAME	Torburnlea
COMPANY REGISTRATION	<i>Available at request</i>
POSTAL ADDRESS	Mataffin Macadamia Village, Nelspruit, Mbombela, Mpumalanga, South Africa, 1205
STREET ADDRESS	Mataffin Macadamia Village, Nelspruit, Mbombela, Mpumalanga, South Africa, 1205
PHONE NUMBER	+27 (0) 13 007 0241
E-MAIL ADDRESS	stay@torburnlea.co.za

3. Section 51(1)(b) PAIA

AS AMENDED BY POPIA

- **Insofar as the Promotion of Access to Information Act is concerned:**

3.1. Section 51(1)(b)(i) PAIA

The South African Human Rights Commission has made available a “Guide on how to use the Promotion of Access to Information Act 2 of 2000” in terms of section 10 PAIA. The Guide can be downloaded at sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf or at gov.za/sites/default/files/gcis_documents/SAHRC-PAIA-guide2014.pdf. Since the amendment of PAIA by POPIA, the Section 10 is now the responsibility of the Information Regulator.

3.2. Section 51(1)(b)(ii) PAIA

Categories of record which are available (at www.torburnlea.co.za) without a person having to request access in terms of PAIA:-

- 3.2.1. Website Terms of Use;
- 3.2.2. Data Privacy and Cookie Statement;
- 3.2.3. Data Access & Protection Manual.

3.3. Section 51(1)(b)(iii) PAIA

Description of the records which may be available, if applicable, in accordance with any other legislation (source : SAICA Guide on the Retention of Records, May 2021)

Close Corporations Act, 69 of 1984	Retention Period
Accounting records, including supporting schedules to accounting records and ancillary accounting records	15 years
Amended Founding statement (forms CK 2 and CK 2A)	Indefinite
Annual financial statements, including annual accounts and the report of the accounting officer	15 years
Founding statement (Form CK 1)	Indefinite
Minutes books as well as resolution passed at meetings	Indefinite

Companies Act, 71 of 2008	Retention Period
General rule for company records: Any documents, accounts, books, writing, records or other information that a company is required to keep in terms of the Act and other public regulation	7 years or longer (as specified in other public regulation)
Notice of Incorporation (Registration certificate)	Indefinite
Memorandum of Incorporation and alterations or amendments Rules	Indefinite
Register of company secretary and auditors	Indefinite
Regulated companies (companies to which chapter 5, part B, C and Takeover Regulations apply) - Register of disclosures of person who holds beneficial interest equal to or in excess of 5% of the securities of that class issued	Indefinite
Notice and minutes of all shareholders meeting including resolutions adopted and documents made available to holders of securities	7 years
Copies of reports presented at the annual general meeting of the company	7 years
Copies of annual financial statements required by the Act Copies of accounting records as required by the Act	7 years

Record of directors and past directors, after the director has retired from the company	7 years
Written communication to holders of securities	7 years
Minutes and resolutions of directors' meetings, audit committee and directors' committees	7 years
Securities register and uncertificated securities register	Indefinite

Electronic Communication and Transaction Act, 25 of 2002	Retention Period
Personal information and the purpose for which the data was collected must be kept by the person who electronically requests, collects, collates, processes or stores the information	As long as information is used, and at least 1 year thereafter
A record of any third party to whom the information was disclosed must be kept for as long as the information is used	As long as information is used and at least 1 year thereafter
All personal data which has become obsolete	Destroy

Tax Administration Act, 28 of 2011	Retention Period
Records, books of account, tax returns or documents enable the person to observe the requirements of a Tax Act; are specifically required under a Tax Act or by the Commissioner by public notice; and will enable the South African Revenue Service (SARS) to be satisfied that the person has observed these requirements. In their original form in an orderly fashion at a safe place, in any other form (including electronic) as may be prescribed by the SARS Commissioner in a public notice, or in a form specifically authorised by a senior SARS official, at a place physically located in South Africa.	5 years from date of submission

Income Tax Act, 58 of 1962	Retention Period
In respect of each employee the employer shall keep a record showing (para 14(1)(a)-(d)): amount of remuneration paid or due by him to the employee, the amount of employees' tax deducted or withheld from the remuneration paid or due, the income tax reference number of that employee, and any further prescribed information	5 years from the date of submission of the return

Value Added Tax Act, 89 of 1991	Retention Period
lists of debtors and creditors showing the amounts owing by the debtors and owing to the creditors, record of all goods and services, imported goods, the charts and codes of account, the accounting, instruction manuals and the system and programme documentation which describes the accounting system used for each tax period in the supply of goods and services;	5 years from date of submission of the return
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Promotion Of Access To Information Act, 2 Of 2000	Retention Period
POPIA/PAIA manual, schedule of requests in terms of PAIA	Indefinite
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Protection of Personal Information Act, 4 of 2013	Retention Period
Compliance Framework, Impact Assessment, POPIA & PAIA Manual, internal Request Procedures and Schedules, and internal employee awareness sessions.	Indefinite

3.4. Section 51(1)(b)(iv) PAIA

3.4.1. SUFFICIENT DETAIL TO FACILITATE A REQUEST FOR ACCESS TO A RECORD HELD BY RAPULA FARMING
See below: "Requests"

3.4.2. DESCRIPTION OF THE SUBJECTS ON WHICH TORBURNLEA HOLDS RECORDS:
Our core day-to-day business operations necessitate us to hold records, for purposes related to this website, on:

3.4.2.1. **Website visitors** - Records may include the IP address a device uses to connect to the Internet, device and browser type and version, time zone setting, operating system, page interaction and navigation.

3.4.2.2. **People contacting us via the website** - Records may include first and last name, email address, and other identifiers that people voluntarily share with us.

- **Insofar as the Protection of Personal Information Act is concerned:**

3.5. Section 51(1)(c)(i) PAIA

3.5.1. The purpose of the processing:-

Torburnlea processes personal information in the normal operation of its business(es) to:-

- 3.5.1.1. to help us identify data subjects when they contact us;
- 3.5.1.2. to reply to (personal) requests made via the website;
- 3.5.1.3. to facilitate the management, payment and delivery of services and products to our clients;
- 3.5.1.4. to personalise the services and products we offer;
- 3.5.1.5. to analyse website usage to better understand how our website is accessed and used;
- 3.5.1.6. to carry out analysis of website visitor and potential client profiling;
- 3.5.1.7. for general administration, financial and tax purposes;
- 3.5.1.8. for legal or contractual purposes;
- 3.5.1.9. to inform our existing customers of the products and services we offer.

3.5.2. Legal basis for processing personal information:-

3.5.2.1. Section 11(1)(a) POPIA

The data subject consents to the processing (and only for as long as this consent has not been withdrawn or objected to in terms of Section 11(2) (b) and Section 11(3) POPIA);

3.5.2.2. Section 11(1)(b) POPIA

Processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party;

3.5.2.3. Section 11(1)(c) of POPIA

Processing is imposed on us by law;

3.5.2.4. Section 11(1)(d) POPIA

Processing protects a legitimate interest of the data subject;

3.5.2.5. Section 11(1)(e) POPIA

Processing is necessary for the proper performance of a public law duty by a public body; or

3.5.2.6. Section 11(1)(f) POPIA

Processing is necessary for pursuing our legitimate interests or those of a third party to whom the information is supplied;

3.6. Section 51(1)(c)(ii) PAIA

A description of the categories of data subjects and of the information or categories of information relating thereto: *please refer to our summary under Section 51(1)(b)(iv) PAIA above.*

3.7. Section 51(1)(c)(iii) PAIA

The recipients or categories of recipients to whom the personal information may be supplied:

- 3.7.1. From time to time, Torburnlea staff, accountants, auditors or government officials may request access to information that has been collected via our website for administrative, tax and company regulation purposes;
- 3.7.2. “Online Brand Ambassadors” are “operators” as defined by sections 1, 20 and 21 of POPIA, and manage website and email hosting for www.torburnlea.co.za. Online Brand Ambassadors may not process personal information they manage on our behalf for their own purposes, and must manage any personal information they manage on our behalf only after our prior authorisation and under conditions of confidentiality.
- 3.7.3. “Nightsbridge.com” are “operators” as defined by sections 1, 20 and 21 of POPIA, and manage online bookings for www.torburnlea.co.za. Nightsbridge.com may not process personal information they manage on our behalf for their own purposes, and must manage any personal information they manage on our behalf only after our prior authorisation and under conditions of confidentiality.
- 3.7.4. Receiving personal information from third parties: When Torburnlea receives personal information from any third party on behalf of a data subject, we require confirmation that such a third party has written consent from the data subject indicating that the data subject is aware of the transfer of their personal information, the purpose for which it may be used, and the contents of this PAIA Manual and our Data Protection & Privacy Policy, and does not have expressed any objection to our processing their personal information accordingly.

3.8. Section 51(1)(c)(iv) PAIA

(Planned) Transborder flows of personal information: all personal information is processed either *physically* at the Torburnlea main office, or *digitally* on servers hosted in South Africa. We do not transfer personal information outside of South Africa.

3.9. Section 51(1)(c)(v) PAIA

A general description allowing a preliminary assessment of the suitability of the information security measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information which is to be processed:

We have established the following internal procedures and adequate measures to keep the personal information we process secure:-

- 3.9.1. POPIA / PAIA compliance assessments, compliance framework and ongoing monitoring and support by the appointed Information Officer;
- 3.9.2. Staff training, awareness sessions and ongoing legal support;
- 3.9.3. We only contract reputable and compliant suppliers and contractors with a track record of privacy compliance;
- 3.9.4. Physical safeguards: controlled access, office anti-burglar security, computer master password, anti-virus software;
- 3.9.5. Digital safeguards:
 - 3.9.5.1. The Operator for www.torburnlea.co.za and email is onlinebrandambassadors.com, who are bound by sections 20 and 21 of

- POPIA, and who maintain software updates, and perform regular manual checks;
- 3.9.5.2. Specialised automated security software scans our website for intrusions, malicious software or attacks;
- 3.9.5.3. Only ‘operators’ (as defined in POPIA) with whom we have written contracts may process personal information on our behalf, on condition of confidentiality and only with our prior knowledge and authorisation;
- 3.9.5.4. Your connection to www.torburnlea.co.za is secured by Hypertext Transfer Protocol Secure (HTTPS), a protocol used for secure communication over a computer network by encrypting communication using Transport Layer Security (TLS) or, formerly, Secure Sockets Layer (SSL). The protocol is therefore also referred to as HTTP over TLS, or HTTP over SSL. HTTPS’ bidirectional encryption of communications between a client and server authenticates the accessed website, and protects the privacy and integrity of the exchanged data while in transit against man-in-the-middle attacks, eavesdropping and tampering;
- 3.9.5.5. Our office computers run updated versions of anti-virus software and are access-protected by master passwords.
- 3.9.6. Should there be reasonable grounds for believing that personal information has been accessed by an unauthorised person, we will notify the Information Regulator as soon as reasonably possible after the discovery of the compromise, and we will notify you by e-mail if your information is affected, or place a notification in a prominent position on www.torburnlea.co.za, unless this notification would compromise the investigation into the data breach.

3.10. Section 51(1)(c)(f) PAIA

In general such other information as may be prescribed.

3.11. Section 51(3) PAIA

This manual is made available as prescribed:-

- (a) on our website at www.torburnlea.co.za;
- (b) at the principal place of business of Torburnlea for public inspection during normal business hours;
- (c) to any person upon request and upon the payment of a reasonable amount; and
- (d) to the Information Regulator upon request.

4. Section 52 PAIA

AS AMENDED BY POPIA

We have voluntarily chosen to make the following information readily available without a person having to request access in terms of PAIA ('section 52 notice' or a 'voluntary disclosure notice'), subject to a prescribed fee for reproduction as per section 52(3) PAIA:-

- 4.1. Website Terms of Use for www.torburnlea.co.za;
- 4.2. Data Privacy and Cookie Statement - set out how we process personal information and our compliance procedures with POPIA and PAIA;

- 4.3. Data Access & Protection Manual - sets out how requests may be submitted in terms of the right to access to information or in terms of the right to (informational) privacy.

5. Requests

CHAPTER 3 PAIA AS AMENDED BY POPIA

- **Insofar as the Promotion of Access to Information Act is concerned:**

5.1. PAIA Requests

“PAIA requests” are requests for access to any information held by us, whether that information is “personal information” in terms of POPIA or not. Access to information is not a right in itself, but may only be requested if that information is required for the exercise or protection of other rights (section 50 PAIA).

5.2. Form of request

A request to access to a record held by Torburnlea must be made by means of a duly completed **Form C** (which may be downloaded here: justice.gov.za/forms/form_paia.htm) and sent to us by post, email or fax (section 53 PAIA).

Your request must be accompanied by:-

- (a) sufficient particulars to enable us to identify- (i) the record(s) requested; and (ii) the requester;

- (b) an indication of which form of access is required;
- (c) your postal address or fax number in South Africa, or any other manner you wish to be informed of the decision on the request;
- (d) the identification of the right you are seeking to exercise or protect;
- (e) an explanation of why the requested record is required for the exercise or protection of that right; and
- (f) if the request is made on behalf of a person, proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the head.

5.3. Fees

Anyone, other than a personal requester (this is a requester seeking access to a record containing *personal information* about the requester), who makes a request for access will be required to pay the prescribed request fee (if any) before the request is further processed. A deposit of one third of the access fee may be required from a requester, other than a personal requester, if the search and preparation of the requested record requires more than the hours prescribed for this purpose.

5.4. Refusal

We may refuse access to a record held by us in terms of Chapter 4 of the Promotion of Access to Information Act, including when access would involve the unreasonable disclosure of personal information about a third party (including deceased persons) (section 63), or when access would be in contravention of our mandatory protection of commercial information

of a third party as specified in section 68 (section 64), of our mandatory protection of certain confidential information of third party (section 65), of our mandatory protection of safety of individuals, and protection of property (section 66), of our mandatory protection of records privileged from production in legal proceedings (section 67) or of our mandatory protection of research information of third party, and protection of research information of private body (section 69).

5.5. Appeal

A requester may lodge an internal appeal against our decision in terms of Part 4, Chapter 1 of the Promotion of Access to Information Act.

- **Insofar as the Protection of Personal Information Act is concerned:**

5.6. POPIA requests

“POPIA requests” are requests made by data subjects about personal information we may or may not process about them. Data subjects do not need to show that they need access to their personal information in the exercise or protection of another right; POPIA establishes access to personal information about yourself as a right in itself.

Data subjects may request confirmation about whether or not we process personal information about them, access to that information, objection, amendments or destruction of the information.

5.7. Form of request

Section 25 POPIA stipulates that all data subject requests must be made compliant with section 53 PAIA. This implies that all requests must contain at least:

- (a) sufficient particulars to enable us to identify- (i) the record(s) requested; and (ii) the requester;
- (b) an indication of which form of access is required;
- (c) your postal address or fax number in South Africa, or any other manner you wish to be informed of the decision on the request;
- (d) the identification of the right you are seeking to exercise or protect;
- (e) an explanation of why the requested record is required for the exercise or protection of that right; and
- (f) if the request is made on behalf of a person, proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the head.

5.8. Request for correction

Form 2 : Request for Correction or Deletion of Personal Information or Destroying or Deletion of Record of Personal Information

Section 24(1) of the Protection of Personal Information Act, 4 of 2013,

Regulation 3 : Regulations relating to the Protection of Personal

Information, 2018 ☺ onlinebrandambassadors.com/popia/

5.9. Objection

Form 1 : Objection to the Processing of Personal Information
Section 11(3) of the Protection of Personal Information Act, 4 of 2013,
Regulation 2 : Regulations relating to the Protection of Personal
Information, 2018 ☺ onlinebrandambassadors.com/popia/

5.10. Request for deletion

Form 2 : Request for Correction or Deletion of Personal Information or
Destroying or Deletion of Record of Personal Information
Section 24(1) of the Protection of Personal Information Act, 4 of 2013,
Regulation 3 : Regulations relating to the Protection of Personal
Information, 2018 ☺ onlinebrandambassadors.com/popia/

6. Complaints

- **Insofar as the Promotion of Access to Information Act is concerned:**

You may within 180 days of our decision in relation to your access to a record held by us, submit a complaint to the Information Regulator in the prescribed manner and form for appropriate relief. You may only submit a complaint to the Information Regulator after you have exhausted our internal appeal procedure. (section 77A PAIA as amended by POPIA)

- **Insofar as the Protection of Personal Information Act is concerned:**

In terms of section 74 POPIA, any person may submit a complaint to the Information Regulator in writing, in the prescribed manner and form (download **Form 5** from www.onlinebrandambassadors.com/popia/), alleging interference with the protection of your (or someone else's) personal information. "Interference" means any breach of the conditions for the lawful processing of personal information as referred to in Chapter 3 of POPIA, non-compliance with sections 22, 54, 69, 70, 71 or 72 POPIA; or a breach of the provisions of a code of conduct issued in terms of section 60 POPIA. In terms of section 99 POPIA, you, or at your request, the Information Regulator, may institute a civil action for damages for breach of any provision of POPIA as referred to in section 73, whether or not there is intent or negligence on our part.