

# CHAPTER 10 - ATHLETICS SOUTH AFRICA PRIVACY POLICY - ASA Rules and Regulations

## 1. INTRODUCTION

- 1.1. South Africa recently implemented a "Protection of Privacy Act" which directly impacts on how Athletics South Africa protects information obtained from members.
- 1.2. The basic principles of data protection are:
  - 1.2.1. For all data collected, be it statistics, personal information, images, etc., there should be a stated purpose.
  - 1.2.2. Information collected from an individual cannot be disclosed to other organizations or individuals unless specifically authorized by law or by consent of the individual.
- 1.3. In terms of South African law, the right to privacy is protected in terms of the common law and section 14 of the Constitution of South Africa 1996. In both instances, the right to privacy is limited, and to prove an infringement will most probably be fairly difficult. There is also established case law on:
  - 1.3.1. bodily privacy,
  - 1.3.2. the privacy of communications, and
  - 1.3.3. territorial privacy.
- 1.4. The Protection of Personal Information Act (called the POPI Act or POPIA) regulates the use and processing of personal information. POPIA is essentially the South African Data Protection Bill or Data Protection Act.

## 2. OVERVIEW OF THE POPI ACT

- 2.1. This chapter in the ASA Rules and Regulations does not intend to cover all aspects of the laws on the protection of privacy. This introduction to the laws on the protection of privacy will only provide an overview of the POPI Act. The POPI Act recognises the right to privacy enshrined in the South African Constitution and gives effect to this right by mandatory procedures and mechanisms for the handling and processing of personal information.
- 2.2. The POPI Act is in line with current international trends and laws on privacy. 'Processing' is broadly defined, including the *'collection, recording, organisation, storage, updating or modification, retrieval, consultation, use, dissemination by means of transmission, distribution or making available in any other form, merging, linking, as well as blocking, erasure, or destruction of personal information.'*
- 2.3. The POPI Act provides eight information protection principles to govern the processing of personal information.
- 2.4. There are specific provisions for:
  - 2.4.1. direct marketing,
  - 2.4.2. automated decision making,
  - 2.4.3. the processing of cross-border flows of data (see section 72 of the POPI Act).

- 2.5. The need for an Information Regulator to enforce the provisions of the POPI Act has also been recognised, and provision is made for penalties and offences in certain instances.

## **2.6. The eight principles of the POPI Act**

People often provide information for one reason and do not realise that it may be used for other purposes as well. Therefore POPIA prescribes eight specific principles for the lawful processing and use of personal information. In a nutshell, the POPIA principles are:

- 2.6.1. The processing of information is limited which means that personal information must be obtained in a lawful and fair manner.
  - 2.6.2. The information can only be used for the specified purpose it was originally obtained for.
  - 2.6.3. The POPI Act limits the further processing of personal information. If the processing takes place for purposes beyond the original scope that was agreed to by the data subject, the processing is prohibited.
  - 2.6.4. The person who processes the information must ensure the quality of the information by taking reasonable steps to ensure that the information is complete, not misleading, up to date and accurate.
  - 2.6.5. The person processing the personal information should have a degree of openness. The data subject and the Information Regulator must be notified that data is being processed.
  - 2.6.6. The person processing data must ensure that the proper security safeguards and measures to safeguard against loss, damage, destruction and unauthorised or unlawful access or processing of the information, have been put in place.
  - 2.6.7. The data subject must be able to participate. The data subject must be able to access the personal information that a responsible party has on them and must be able to correct the information.
  - 2.6.8. The person processing the data is accountable to ensure that the measures that give effect to these principles are complied with when processing personal information.
- 2.7. The introduction of these defined principles will limit the processing of personal information to a very large extent, subject to the exclusions provided for in the POPI Act.

## **3. CROSS-BORDER DATA FLOWS AND DATA PRIVACY**

- 3.1. The electronic flow of data cross-border has led to a concern that data protection legislation will simply be circumvented by the transfer of personal information to countries where privacy-protecting legislation will not apply and where information will be processed without any hindrance.
- 3.2. POPIA only permits the transferring of personal information across borders under the specific circumstances mentioned in section 72 of the POI Act.
- 3.3. In essence, the country where the information will be processed or the recipient of the information must be subject to rules or regulations effectively similar to the principles stated in POPIA.
- 3.4. This can be done by means of legislation or a personal contractual relationship between the parties. In countries where no such rules or regulations exist, for example in most African countries, the parties can enter into an agreement, outlining the duties on the party processing or receiving the information in the country without data protection legislation, in line with the principles of POPIA. A party's prior consent to a cross-border transfer of its personal information may also be obtained.

#### **4. OFFENCES AND PENALTIES REGARDING DATA PRIVACY IN SOUTH AFRICA**

- 4.1. The POPI Act established the Information Regulator, the supervisory authority or body for South Africa. Part "A" of Chapter 5 of POPI has 17 sections (section 39-54), that relate to all aspects of this new body.
- 4.2. The offences and penalties in POPIA are quite limiting, for example, hindering and obstruction of the Information Regulator in the execution of its obligations and duties, or failing to protect an account number may lead to penalties. A person convicted of these offences will be subject to a fine or to imprisonment for a period not exceeding 10 years, or to both a fine and imprisonment.

#### **5. CONCLUSION REGARDS DATA PROTECTION IN SOUTH AFRICA**

- 5.1. The regulation of the collection, use, and processing of personal information through legislation is an internationally accepted practice. Not only will individuals and organisations in the private sector gain with data privacy legislation or a data protection Act but it is also important for trade, as concerns around information privacy can create barriers to international trade.

#### **6. HOW DOES THE NEW PRIVACY ACT IMPACT ON ATHLETICS SOUTH AFRICA?**

- 6.1. Athletics South Africa (ASA) takes the protection of the data and images that ASA holds about athletes, volunteers, coaches and officials seriously, and will do everything possible to ensure that data is collected, stored, processed, maintained, cleansed and retained in a compliant manner.
- 6.2. All Members are kindly requested to read this privacy policy carefully to see how ASA will treat the personal information that is provided by Members to ASA, or collected by ASA from Members, on its various communication platforms, e.g. website, social media, e-mails, media releases, publications, etc. or structures e.g. licensing forms, entry systems, training camps, meetings, competitions, etc. ASA will take reasonable care to keep the information of members secure, and to prevent any unauthorised access.
- 6.3. Although the maintenance of ASA communication platforms, in some cases is outsourced, the service providers are held accountable by the same laws mentioned above. For the purposes of data protection legislation, ASA is the data controller.
- 6.4. This policy explains how the information ASA collect about Members is used and kept securely. It also explains privacy choices of Members when using the ASA website as well as your right to access your information under Data Protection Legislation.

#### **7. THE INFORMATION WE COLLECT ABOUT MEMBERS**

- 7.1. ASA may collect the following information about Members through various communication platforms, e.g.: Name, email address, postal address and any other information the Member voluntarily provide to ASA.
- 7.2. An IP address (which is a unique identifier that computers and devices use to identify and communicate with each other) which is automatically recognised by the web server.

#### **8. THE INFORMATION PROVIDED TO ASA**

- 8.1. In becoming a registered athlete, coach, official or volunteer, ASA will collect certain information about you as Members which will include your name, date of birth, gender, license number, email address, address, telephone number, names of the ASA affiliated clubs that you are a member of, and details of any coaching or officiating qualifications and licenses you hold (Athletics Data).
- 8.2. Where you are registered through an affiliated club, the club will collect your details and pass them to ASA, through the province, to be able to register you.
- 8.3. ASA will also collect the full name, address and telephone numbers of two emergency contacts nominated by you. Once registered, ASA will also access information via the ASA Statistics Committee, Provinces, Associates, etc. about competitions you participate in (the date, name and venue of competitions, your personal results, records, rankings).

## 9. HOW ASA USES YOUR INFORMATION

ASA may use your personal information for several purposes, including:

- 9.1. Administer your involvement in Athletics;
- 9.2. To fulfil a contract with you if you become a registered athlete;
- 9.3. To notify you about important updates and information about the membership or service you have paid for;
- 9.4. To deal with your requests and enquiries;
- 9.5. To contact you for reasons related to your enquiry or in case of emergency;
- 9.6. To use your IP address to monitor traffic and gather browsing behaviours of visitors to ASA websites. We will not use your IP address to identify you in any way;
- 9.7. To create meaningful, actionable analysis on an anonymised basis.
- 9.8. To create results for competitions that include age group classifications.

## 10. ASA'S LEGAL BASES FOR PROCESSING YOUR INFORMATION

- 10.1. ASA's key purpose is to encourage and enable participation in athletics at all levels (including participation of athletes, coaches, officials and supporters) and to enable those with high athletic talent to develop and fulfil their potential by creating and supporting competition and training opportunities.
- 10.2. ASA therefore, will process it on the basis of legitimate interest of administering your involvement in the sport of athletics to ensure the sport is running itself efficiently, with the minimum of bureaucracy and volunteer time.
- 10.3. To administer your involvement in Athletics:
  - 10.3.1. Administering and ensuring the eligibility of athletes, coaches and officials and others involved in the sport – this may involve the receipt of limited amounts of sensitive data in relation to disabled athletes or in relation to anti-doping matters;
  - 10.3.2. Ensuring compliance with the current Rules and Regulations including those on the affiliation of clubs, constituent bodies and registration of athletes;
- 10.4. This will include the following:
  - 10.4.1. The use of Uniform Resource Name (URN), a Uniform Resource Identifier (URI) that uses the URN scheme to obtain name and date of birth via an application program interface

- (API) to set routines, protocols, and tools for building software applications, e.g. to check license validation at point of entry to athletics and running events;
- 10.4.2. The transfer of registered members from one club to another. You will maintain the same record, but the club name associated with the record will change.
  - 10.5. If you are a club secretary or club official, ASA will provide essential information regarding your affiliation to Athletics South Africa;
  - 10.6. There is an administration portal where a selected number of staff can access data to help to respond to queries, update data and perform necessary administration activity;
  - 10.7. Providing relevant and necessary information via email, text, post to you about the following:
    - 10.7.1. Changes to rules and regulation;
    - 10.7.2. Updates to advice and guidance relating to specific roles held within athletics;
    - 10.7.3. Transactional information relating to club affiliation and transfers athlete registration, representative teams, competition and events, coach and officiating licenses, road race licensing, courses,
    - 10.7.4. Continuing Professional Development (CPD) to process tracking and documenting the skills, knowledge and experience that you gain both formally and informally as you work, beyond initial tertiary training.
    - 10.7.5. Record keeping, research and analysis
    - 10.7.6. Maintaining records of participation in athletics, in particular maintaining details of discipline and misconduct;
    - 10.7.7. Maintaining statistics and conducting analysis on the make-up of athletics and running participants;
    - 10.7.8. Communicating with you to ask for your opinion on ASA initiatives and services
  - 10.8. Website personalisation
    - 10.8.1. Providing access to all the relevant services that you have access to as a registered athlete through a single sign on service.
    - 10.8.2. Providing you with personalised information about your participation in Athletics and Running through the ASA portal/ dashboard.
  - 10.9. Athlete registration
    - 10.9.1. In relation to athlete registration specifically we also have a contractual obligation to you as a member to provide the service you are registering and paying for. Therefore, ASA may contact you about important information about the services and exclusive benefits that form part of the athlete registration scheme that you are paying for.
  - 10.10. Sharing data
    - 10.10.1. If you become a registered athlete, club official or volunteer, we may share your Athletics Data with the following bodies as part of the administration of your involvement in the sport and for purposes of delivering the tasks outlined above:
      - 10.10.1.1. ASA
      - 10.10.1.2. Other members, provinces, areas or associates
      - 10.10.1.3. Selected members of the ASA Council, Commission, Committees and task teams

10.10.1.4. Team Managements

10.10.1.5. SASCO, SRSA, and other governmental departments partnering with ASA to provide a service to ASA

10.10.1.6. Third party data managers who support ASA in managing the sport

10.10.2. We will share only what is needed for those purposes and, where possible, will anonymise the data before sharing. If we would like to share your information for any other purpose, we will ask for your consent.

10.10.3. ASA may also share your personal information with the police and other law enforcement agencies for the purposes of crime prevention or detection.

10.10.4. If we disclose your information, we ask the organisation to demonstrate that the data will assist in the prevention or detection of crime, or that ASA is legally obliged to disclose it.

10.10.5. This is done on a strictly case by case basis and through a tightly controlled process to ensure we comply with Data Protection Legislation.

## 10.11. Marketing

10.11.1. When ASA collects information from you, ASA will ask you whether you would like to receive information about ASA products and services, prize draws and competitions and information from sponsors. ASA will give you the opportunity to opt in to any such communications and will tell you how you can opt-out at any time.

10.11.2. Where you have opted in to additional communications and marketing, ASA will process your Athletics Data on the basis of consent. When this policy is first issued ASA will have communicated to you about the changes and will have set your preferences to ensure you do not receive any marketing communication that you have not consented to.

10.11.3. ASA may also share your personal information with the police and other law enforcement agencies for the purposes of crime prevention or detection.

10.11.4. If ASA discloses your information, ASA will ask the organisation to demonstrate that the data will assist in the prevention or detection of crime, or that ASA is legally obliged to disclose it. This is done on a strictly case by case basis and through a tightly controlled process to ensure we comply with Data Protection Legislation.

## 10.12. Protecting your information

10.12.1. The data that ASA collects from you may be transferred to a destination external to ASA's own secure network. ASA will not transfer your data outside of the South African Economic Area.

10.12.2. By submitting your personal data, you agree to this transfer, storing or processing. ASA will take all reasonable steps to ensure that your data is treated securely and in accordance with this privacy policy. The Internet is not generally a secure medium for communication and therefore ASA cannot guarantee the security of any information you send to ASA over the Internet, e-mail, social media, or other communication platforms. ASA use up-to-date industry procedures to protect your personal information. ASA also protect the security of ASA's data using Secure Sockets Layer (SSL) encryption technology.

## 10.13. Email Sending Provider (ESP)

ASA may use a third-party provider to deliver ASA's regular communications. If you consent to ASA sending you ASA's monthly e-newsletter, ASA will let you know who the third-party provider is at that time. ASA gather statistics around email opening and clicks using industry standard technologies including clear images to help ASA monitor and improve ASA e-newsletters.

## 10.14. Surveys

10.14.1. ASA may carry out surveys using a third-party provider. ASA will not transfer any data to a third party for research purposes. In each survey, ASA will clearly tell you what data ASA are collecting and provide a link to terms and conditions for any incentives offered to take part in that survey. ASA do not link any other information about your browsing activity with the survey data, which is stored separately. All survey data will be anonymised.

## 10.15. Third Party Links

10.15.1. The ASA Site may, from time to time, contain links to and from the websites of other athletics and running organisations. If you follow a link to any of these websites, please note that these websites have their own privacy policies and that ASA do not accept any responsibility or liability for these policies. Please check these policies before you submit any personal data to these websites.

## 11. YOUR RIGHTS

### 11.1. Finding out what information ASA holds about you

Under the Data Protection Legislation, you can ask to see any personal information that ASA hold about you. Such requests are called data subject access requests. If you would like to make a subject access request, please contact ASA at [ceo@athleticssa.net](mailto:ceo@athleticssa.net), or write to ASA at:

**Data Protection  
Athletics South Africa**  
P O Box 2712  
Houghton Estate  
2041

You will also need to provide two forms of identification, for example, ID document, driving licence, passport, ASA License, and, if appropriate, anything about the source or location of the information you are requesting.

### 11.2. Service and marketing messages

11.2.1. If you are currently receiving service messages or marketing communications from ASA and no longer wish to do so, please notify ASA accordingly.

### 11.3. Right to be forgotten

11.3.1. In certain circumstances you can request ASA to delete all information ASA holds which identifies you. You can make this request at any time by emailing [ceo@athleticssa.net](mailto:ceo@athleticssa.net), but please note ASA may be compelled to maintain your information due to specific legislative or regulatory requirements.

### 11.4. Data corrections

- 11.4.1. You have the right to require ASA to correct any inaccuracies in your data free of charge. You can also exercise this right at any time by contacting ASA at ceo@athleticssa.net , and;
- 11.4.2. providing ASA with enough information to identify you; and specifying the information that is incorrect and what it should be replaced with.

**11.5. Data portability**

- 11.5.1. You have the right to request a copy of your personal data for you to reuse for your own purposes across different services. You can also exercise this right at any time by contacting ASA at ceo@athleticssa.net

**11.6. Data retention**

- 11.6.1. Any data that ASA collects from you will be deleted in accordance with timescales set out below:

<b>Type of Data</b>	<b>Date of deletion</b>
Athletics Data	8 years (past 2 Olympic cycles) after an individual has not participated an active part in athletics.
URN, name and date of birth	This information will be anonymised after the period referred to above.
Name where athlete has represented their country at any level	For such time as the athlete represented South Africa and for fifty years thereafter.
Coach and Official Data	For such time as an individual achieved a coach or official qualification and for fifty years thereafter.

**11.7. Complaints and contacts**

- 11.7.1. If you have any concerns or complaints in relation to how the ASA collects and/or processes your personal data, you should contact ASA in the first instance, who will direct any concerns or complaints to the relevant ASA Department.
- 11.7.2. Please use the same details to contact ASA with regard to anything included in the Privacy Policy.
- 11.7.3. If you are dissatisfied with how your concern/complaint is dealt with by ASA, you have the right to report your concern/complaint to the ASA Presidium. The contact details are available on the ASA website.

**12. Changes to our Privacy Policy**

- 12.1. ASA regularly reviews its Privacy Policy and updates will appear on this page when necessary.