

Information Regulator establishes Enforcement Committee

The Information Regulator (Regulator) has reached yet another milestone with the establishment of its Enforcement Committee.



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The Enforcement Committee is established in terms of section 50 of the Protection of Personal Information Act No. 4 of 2013 (PoPIA) and will be chaired by Adv Helen Fourie SC and Simonè Margadie will serve as the alternative chairperson.

Adv Helen Fourie SC is a member of the Pretoria Society of Advocates and has served as an acting Judge in the North Gauteng High Court.

Her Senior Counsel status was conferred by the President of South Africa in 2018. The focus of Fourie's practice is providing advice and conducting litigation in matters concerning various aspects of insolvency law, corporate law, contractual disputes, National Credit Act, wills and estates and trusts, interdicts, and evictions.

Margadie is an attorney and holds a Master of Laws degree in Corporate and Commercial Law and was admitted as an attorney of the High Court of South Africa on 12 April 2001.

She currently serves on the panel of the Law Society of the Northern Provinces. She previously served on the panel of the Independent Communications Authority of South Africa (Icasa) and the South African Bureau of Standards (SABS).

The Enforcement Committee comprises 14 independent experts drawn from a wide array of professional backgrounds such as law, information security, education, finance accounting, auditing, actuarial science, forensics and criminal investigations.

Complaints and investigations

Section 93 of PoPIA provides that the Enforcement Committee must consider all matters referred to it by the Regulator regarding a complaint, an investigation of a complaint, a finding in respect of the complaint, and as referred to in section 92 of PoPIA, other matters or a recommendation in respect of the proposed action to be taken by the Regulator.

The matters to be referred to the Enforcement Committee also include any matter regarding a complaint in terms of the Promotion of Access to Information Act (PAIA).

The Enforcement Committee is required to make findings in respect of matters referred to it.

PoPIA further provides that the Enforcement Committee may make any recommendation to the Regulator necessary or incidental to any action that should be taken against a responsible party in terms of PoPIA or an information officer or head of a private body in terms PAIA.

"The inauguration of the Enforcement Committee is a historic moment for the Regulator.

"For the first time since its establishment in 2016, the Regulator will be able to enforce its powers and provide an effective remedy to the complainants whose right to privacy and the right of access to information have been infringed," said Chairperson of the Regulator Adv. Pansy Tlakula speaking at the induction session for the Enforcement Committee.

Resolution

The establishment of the Enforcement Committee is a shot in the arm to the Regulator's efforts aimed at confronting the increasing volume of complaints by the public regarding the processing of their personal information by responsible parties or the denial of access to information by public or private bodies.

In the 12 months since the enforcement powers of the Regulator came into force, 150 access to information complaints and 544 protection of personal information complaints have been submitted to the Regulator.

The Enforcement Committee will play a critical role in resolving some of these cases if they are not resolved at the earlier phases of the case management processes, such as the pre-investigation, investigation and mediation phases.