



the federation for a sustainable environment

(Reg. No. 2007/003002/08)  
NPO NUMBER 062986-NPO  
PBO No. (TAX EXEMPT) 930 039 506  
Postnet Suite #113, Private Bag X153, Bryanston, 2021

## **Protection of Personal Information (POPI) Act**

### **PRIVACY POLICY**

#### **1. Introduction**

The FSE is a federation of community based civil society organisations committed to the realisation of the constitutional right to an environment that is not harmful to health or well-being, and to having the environment sustainably managed and protected for future generations. Their mission is specifically focussed on addressing the adverse impacts of mining and industrial activities on the lives and livelihoods of vulnerable and disadvantaged communities who live and work near South Africa's mines and industries.

#### **2. Constitution of the FSE**

The FSE is a Non-Profit Company without members and with the following objectives:

Promoting the ecological sustainability of development and the wise use of natural resources in southern Africa.

Without derogating from the generality of the foregoing, the FSE's main objective includes:

- a) Protecting and promoting environmental health and functional ecosystems for future generations.
- b) Ensuring that developments involving the consumptive or destructive use of natural resources specifically benefit local residents and parties directly affected by the development.
- c) Informing all decision making in development, including in planning and monitoring activities, that affect local people and natural and environmental resources.

- d) Promoting sustainable and just social development as an inseparable consequence of natural resource use development projects.
- e) Taking action, including legal action, to hold decision makers accountable in situations where development may have negative social, economic or environmental impacts that affect people and the environment.
- f) Ensuring that the total cost of the use of natural resources including all externalized and long-term costs of maintaining ecosystem services to local people, are provided for and borne by the project.
- g) Facilitating the remedying of existing environmental degradation.
- h) Mobilising collaborative national and local action among likeminded entities and raising and providing funds and legal and technical expertise to support such actions.

The FSE shall represent the interests of ordinary people in understanding and defending their constitutional rights, which specifically include Section 24 of the Constitution by having an environment that:

- i. Is not harmful to health and well being
- ii. Is protected for present and future generations, and
- iii. By implementing fully the legislation and other matters available to:
  - a. Prevent pollution and ecological degradation
  - b. Promote conservation
  - c. Ensure ecological sustainable development and use of natural resources, and
  - d. Promote justifiable social and economic development.

### **3. The personal information the FSE collects**

The information the FSE collects about the data subject is aligned with the FSE's objectives in terms of its Memorandum of Incorporation; the social and environmental programmes the FSE offers; assistance with applications, objections and appeals in terms of the Mineral and Petroleum Resources Development Act, 28 of 2002, the National Environmental Management Act, 107 of 1998, the National Water Act, 36 of 1998, the Promotion of Access to Information Act, 2 of 2000 and information required in terms of the requirements of the South African Revenue Service, the Non-Profit Organisations Act, 71 of 1997, the Companies Act, 1973 and related Acts and Regulations; environmental tours and information required to indemnify the FSE from injury or damages; conferences, workshops and lectures; research and academic projects; information pertaining to the FSE's Memorandums of Understanding and sponsorships; etc.

It includes the following:

1. The data subject's name, contact details (email address, postal or physical address and mobile number) and affiliation.
2. The data subject's social and environmental issues of concern.
3. The data subject's contact with the FSE such as an e-mail, WhatsApp or SMS.

4. The data subject's account information if he or she or it in the case of a company, is a service provider or consultant of the FSE.
5. The data subject's VAT number, physical or postal address if he or she or it in the case of a company, is a sponsor, a donor or a contracting party in terms of the FSE's Memorandums of Understanding.
6. The data subject's ID Number if it is required in terms of the Non-Profit Organisations Act, 71 of 1997, the Company Act, of 61 1973 or in terms of any other legal requirement.

The FSE commits to the principle that any consent a data subject gives, is "voluntary, specific and informed." The FSE shall ensure that the data subject knows exactly what he or she is consenting to, including the details of what data the FSE uses, how and why.

#### **4. How FSE stores the data subject's personal information**

The FSE stores the data subject's Personal Information in South Africa and may share the information, pending the data subject's consent, with the FSE's affiliates in other countries. If a country does not have substantially similar laws which provide for the protection of personal data, the FSE shall take the necessary steps to ensure that the data subject's Personal Information is adequately protected in that jurisdiction.

The data subject's information will not be stored for longer than is necessary for the purposes described in the Privacy Policy.

#### **5. Where the FSE found the information (if not directly from the data subject)**

The FSE is a member of academic and research institutions, governmental task teams, steering and advisory committees, forums, Google Groups, Non-Profit Organisations and environmental coalitions, WhatsApp Groups and mailing lists. The FSE is furthermore a registered Interested and Affected Party in terms of a significant number of Public Participation Processes pertaining to applications for Environmental and Water Use Licence Authorisations as well as an Applicant or Respondent in Court cases.

The above-mentioned entities and processes generate personal information, which are available to the FSE, as a stakeholder.

#### **6. The FSE's contact details**

Information Officer: Mariette Liefferink

E-Mail: [mariette@pea.org.za](mailto:mariette@pea.org.za)

Telephone: 011 465 6910

Mobile: +27 73 231 4893

Postal Address: Postnet Suite #113, Private Bag X153, Bryanston, 2021

#### **7. Why the FSE is collecting the data subject's information**

Any information the FSE collects is for the public benefit and with an honest purpose, and in the discharge of its obligations in terms of its Memorandum of Incorporation.

The FSE only collects and uses personal information if the FSE is under a legal, moral or social duty to do so or in regard to matters in which the FSE has a legitimate interest.

## **8. Whether or not the data subject has a choice whether to supply the information**

The data subject has a choice as to whether or not to supply the information to the FSE with the proviso that it is aligned with:

1. Section 32 of the Constitution namely that *“everyone has the right to- (a) any information held by the state; and (b) any information that is held by another person and that is required for the exercise or protection of any rights.”*
2. Section 16 of the Constitution, namely that *“(1) Everyone has the right to freedom of expression, which includes- (a) freedom of the press and other media; (b) freedom to receive or impart information or ideas; (c) freedom of artistic creativity; and (d) academic freedom and freedom of scientific research.”*
3. Section 31 of the National Environmental Management Act, 107 of 1998, namely that *“notwithstanding the provisions of any other law, no person is civilly or criminally liable....of having disclosed any information, if the person in good faith reasonably believed at the time of the disclosure that he or she was disclosing evidence of an environmental risk and the disclosure was made in accordance with subsection (5):*  
*(5) Subsection (4) applies only if the person concerned-*
  - (a) disclosed the information concerned to-*
    - i. A committee of Parliament or of a provincial legislature;*
    - ii. An organ of state responsible for protecting any aspect of the environment or emergency services;*
    - iii. The Public Protector*
    - iv. The Human Rights Commission;*
    - v. Any attorney-general or his or her successor;*
    - vi. More than one of the bodies or persons referred to in subparagraphs (i) to (v)*
  - (b) disclosed the information concerned to one or more news media on clear and convincing grounds believed at the time of the disclosure-*
    - i. That the disclosure was necessary to avert an imminent and serious threat to the environment, to ensure that the threat to the environment was properly and timeously investigated or to protect himself or herself against serious or irreparable harm from reprisals; or*
    - ii. Giving due weight to the importance of open, accountable and participatory administration, that the public interest in disclosure of the information clearly outweighed any need for non-disclosure; ...*

*(6) Subsection (4) applies whether or not the person disclosing the information concerned has used or exhausted any other applicable external or internal procedure to report or otherwise remedy the matter concerned.*

*(8) No person may threaten to take any action contemplated by subsection (4) against a person because that person has exercised or intends to exercise his or her right in terms of subsection (4).”*

4. The occasion is privileged and the FSE is under a legal duty to disclose personal information. The chief instances of qualified privilege are:
  - a. Disclosure of personal information made in the discharge of a duty
  - b. Disclosure of personal information made in the furtherance or protection of an interest
  - c. Disclosure of personal information made in the course of judicial proceedings; and
  - d. Disclosure of personal information if it pertains to Reports of parliamentary, juridical and certain other proceedings.

## **9. What are your rights and how can you exercise them if you are a data subject?**

Whenever the FSE processes Personal Data, we take reasonable steps to keep your Personal Data accurate and up-to-date for the purposes for which they were collected. We will provide you with the ability to exercise the following rights under the conditions and within the limits set forth in the law.

If you wish to contact us regarding the use of your Personal Data or you want to object in whole or in part to the processing of your Personal Data please contact us at:

E-MAIL: [mariette@pea.org.za](mailto:mariette@pea.org.za)

MOBILE: +27 73 231 4893

TEL. (+27) 11 465 6910

POSTAL ADDRESS: Postnet Suite #113, Private Bag X153, Bryanston, 2021

If you have provided consent, you may withdraw consent. You may also request, subject to confidentiality obligations to:

- Access your Personal Data as processed by the FSE;
- Ask for correction or erase of your Personal Data; and
- Request portability, where applicable, of your Personal Data, i.e. that the Personal Data you have provided to us, are returned to your or transferred to the person of your choice, in a structured, commonly used and machine-readable format.

The Information Regulator has produced several standard forms for data subjects who want to exercise their rights. The forms\* can be obtained from:

The Information Regulator (South Africa)

SALU Building

316 Thabo Sehume Street

Pretoria.

Tel: +27 (0)12 406 4818

E-Mail: [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za)

\*Form 1 (page 12 of 144): Objecting to processing of personal information

Form 2 (page 14 of 144): Requesting that you correct or delete personal information

Form 5 (page 20 of 144): Complaining to the Information Regulator



Mariette Liefferink

CEO: FEDERATION FOR A SUSTAINABLE ENVIRONMENT