

## **PRIVACY AND DATA PROTECTION**

The SA Law Reform Commission first released the Privacy and Data Protection discussion paper during October 2005. The discussion paper is still under consideration and has not been passed as a Bill.

The comprehensive 400 page document that includes a draft bill covers the processing of information such as:

- Information kept by public and private sector;
- Information about natural and juristic persons;
- Automatic and manual records plus files;
- Sound and image information;
- Professional information;
- Sensitive (special personal) information, and
- Critical information (subject to definition).

Household information and anonymised information has been excluded.

Like many other business entities, Centriq, as an insurance company will have to review its information handling to meet the requirements of the legislation.

The information protection principles as outlined by the proposed legislation covers:

- Processing limitation: Information processing must be done according to the law, in a proper and careful manner and not excessive, given the purpose;
- Purpose Specification: The purpose for data collection must be stated at the outset and it must be for a specific, explicitly defined and legitimate purpose;
- Further processing limitation: There are limits to the internal use of collected information as well as external disclosure, given its original purpose;
- Information quality: The responsible party must ensure information is complete, not misleading, up-to-date, accurate and remains as such;
- Openness: Data subjects must be aware of the collection, the identity of the responsible party, whether mandatory, voluntary and in terms of which laws.
- Security safeguards: Information must be protected against loss, unauthorised access, disclosure, interference, amendment or destruction.
- Individual participation: Data subjects can obtain confirmation plus particulars of information being held and request corrections;
- Accountability: The responsible party must ensure the measures that enable the principles are complied with.

Specific provisions and exemptions have been made regarding the processing of special personal information i.e. religion, race, politics, health, sexual orientation, membership, criminal record and objectionable conduct.

The SA Law Reform Commission recommends the establishment of an Information Protection Commission, as appointed by the State President, to oversee compliance of the legislation. This Commission must be notified of personal information processing in a prescribed manner. In certain cases, prior investigation by the Commission is required before information processing starts. One such case is the process for the purpose of “credit reporting”.

The Commission also requires a section in the act prohibiting “unreasonable information matching and profiling”.

It would seem that it is not the intend to override existing legislative requirements related to concepts around personal information, i.e. provisions in the National Credit Act (NCA) regarding personal information and privacy, will not be replaced by this legislation. Nor will any other act that addresses specifics regarding privacy and information security.

Centriq Insurance in compliance with the planned legislation will have to:

- Appoint/assign an Information Protection Officer as stipulated to monitor compliance.
- Ensure it has customer (individual policyholder) approval for certain data processing.
- Clarify/confirm that certain interpretations do indeed exempt the company from specific requirements.
- Notify the Commission of its processing of personal information or apply for exemption for such notification.

Centriq Insurance has joined a SAIA initiative that will represent the interest of the company at the public meetings of the SA Law Reform Commission during the course of 2009.