

DR FRANCOIS SWART: DOCUMENT RETENTION POLICY & DATA RECORD- AND DESTRUCTION TEMPLATES

1. Purpose of this policy	3
2. PART A: General rules for filing, archiving & retention of personal information	4
3. PART B: Template for document archiving or destruction	4
4. PART C: How long information is to be kept	5
4.1. Constitutional legislation: PAIA (Promotion of Access to Information Act 2 of 2000)	5
4.2. Constitutional legislation: POPI Act.....	5
4.3. Health legislation: National Health Act 61 of 2003 & Regulations issued thereunder.....	6
4.4. Health Legislation: Health Professions Act 56 of 1974, Ethical Rules & Booklets	7
4.5. Health legislation: Medical Schemes Act 121 of 1998.....	7
4.6. Health legislation: Medicines and Related Substances Act 101 of 1965, Medical Device (“MD”) Regulations, 2016 and General (Medicines) Regulations (“GR”), 2017	8
4.7. Occupational health legislation: Occupational Health & Safety Act 130 of 1993.....	8
4.8. Occupational health legislation: Compensation for Occupational Injuries and Disease Act 130 of 1993.....	9
4.9. Consumers / Patients: Consumer Protection Act 68 of 2008	9
4.10. Consumers / Patients: National Credit Act 34 of 2005	10
4.11. Business legislation: Broad-based Black Economic Empowerment Act 53 of 2003, the Code of Good Practice, 2013	10
4.12. Business Legislation: Companies Act 71 of 2008	11
4.13. Business: Competition Act 89 of 1998	12
4.14. Business legislation: Electronic Communication and Transactions Act 25 of 2002 (“ECTA”).....	12
4.15. Finance: Tax Administration Act 28 of 2011	13
4.16. Finance: Income Tax Act 58 of 1962	13

4.17. Finance: Value Added Tax Act 89 of 1991..... 13

4.18. Labour legislation: Basic Conditions of Employment Act 75 of 1997 and the regulations thereto..... 14

4.19. Labour legislation: Employment Equity Act 55 of 1998..... 14

4.20. Labour legislation: Employment Tax Incentive Act 26 of 2013..... 15

4.21. Labour legislation: Labour Relations Act 66 of 1995 (LRA) 15

4.22. Labour legislation: Unemployment Insurance Fund Act 63 of 2002 16

4.23. Insurance: Pension Fund Act 24 of 1956..... 16

4.24. Insurance: Short-term Insurance Act 53 of 1998..... 16

5. PART D: Contract retention and management 16

1. Purpose of this policy

The purpose of this document is to provide Dr Francois Swart Inc with guidelines for document retention, based on the requirements of legislation and other policies.

The Protection of Personal Information Act, 2013, requires of responsible parties (i.e., this Practice) that process personal information, to only keep information “no longer than is necessary... to achieve its purpose”¹, or:

- As is required or authorized by law;²
- As is required by a contract;³
- As consented to by the data subject.⁴

Due to various legislative requirements, documents must be retained for a certain number of years, and in some cases in a particular format, and subject to prescribed criteria. Document retention also relates to the requirement that documents are accurate, up-to-date and not susceptible to unauthorised access, destruction, or abuse.

This Policy contains the general and specific rules relating to document retention for all personal information held by the Practice.

- A. General Practice Policy on Filing, Retention, Archiving & Destruction
- B. Record-keeping system for archiving and destruction of information
- C. Retention periods by legislation: Detail how and for how long the practice have to securely store that information, with reference to specific laws
- D. Retention periods of contracts, etc.

¹ Section 14(1).

² Section 14(1)(a).

³ Section 14(1)(b).

⁴ Section 14(1)(c).

2. PART A: General rules for filing, archiving & retention of personal information

This Practice archives documents when storage (electronic and/or in hard copy) becomes impossible. The Practice's Information Officer Dr Francois Swart or Deputy Information Officer Dr Elmari Craig will oversee the filing, archiving and destruction of information. In general because this is a medical practice patient records are kept to ensure optimal service delivery as well as for possible medico-legal issues that might arise in future.

All archiving & destructions that are done is recorded and signed by the person responsible for the destruction. Where destruction is undertaken by a third party, such party will issue a certificate to that effect, in the event that the records are requested or required under the PAIA at a future date.

GENERAL RULES FOR RETENTION, ARCHIVING & DESTRUCTION								
Document / database	Doc / database reference MDOC, Elixer,	Retention	Start Date for retention	Archive date	Destruction date	Destruction override (e.g. legal process, query, complaint, possible evidence)	Destruction method	Destruction by (insert name; designation)
Employment contracts	<i>Filed on backed-up computer of practice-owner only, hard copy in locked file cabinet</i>	5 years	<i>From date of resignation/ termination</i>	<i>Never for electronic version; hard copy to Metrofile 2 years after contract entered into</i>	<i>Year 6 after termination of employment</i>	<i>Retention period will be extended if pending legal process or dispute by employee</i>	<i>Deletion from electronic database; hard copy retrieved from Metrofile and shredded</i>	<i>Practice manager</i>
Patient files (adults of sound mind, and with no possible legal issue)	<i>Hard copy with pt numbering system starting with surname letter & file nr with date of when first patient: Fo_LJR/1988-12-03 Hard copies; scanned in when pt no longer active in practice or notified that. moved away</i>	6 years	<i>Date of last visit</i>	<i>Hard copy to Metrofile after patient not at practice for 3 years</i>	<i>Year 7 after last visit</i>	<i>File to be kept for as long as any complaint at HPCSA or another forum.</i>	<i>Shredded from Metrofile.</i>	<i>Administrative clerk</i>
Etc.	Etc.	Etc.	Etc.	Etc.	Etc.	Etc.	Etc.	Etc.

3. PART B: Template for document archiving or destruction

This table must be used by all staff to record specific instances of archiving and destruction, which must then be recorded as follows:

CONSOLIDATED RECORD OF ARCHIVING OR DESTRUCTION OF DOCUMENTS
--

Specific Document or group of documents	Doc / database reference (or...)	Archive / Destruction date	Reason for archiving / destruction (please refer to Parts A and C - table on general rules of retention, archiving and destruction AND the specific retention rules set by law and retention periods)	Destruction override (e.g. legal process, query, complaint, possible evidence)	Destruction / Archiving method & place	Archiving / Destruction by (insert name; designation)
<i>E.g. All inactive patient files for period Jan 2014 - Dec 2017</i>	<i>Pat-files</i>	<i>31 Jan 2021</i>	<i>Archiving: Practice Policy allows archiving 3 years after patient inactive in practice; ensure that archiving will keep for remainder of period as set by HPCSA (6 years in total)</i>	<i>N/a as no destruction before lapse of 6 years</i>	<i>Metrofile storage, files picked up by Metrofile but packed by staff</i>	<i>Administrative clerk</i>
<i>Mr PR Oblem Employment Contract</i>	<i>Shared drive & HR cupboard</i>	<i>28 Feb 2021</i>	<i>Destruction: 5 years after employment contract terminated</i>	<i>No override as no CCMA or other issue pending</i>	<i>Document deleted from electronic database and hard copy shredded</i>	<i>Practice manager</i>
<i>Etc.</i>	<i>Etc.</i>	<i>Etc.</i>	<i>Etc.</i>	<i>Etc.</i>	<i>Etc.</i>	<i>Etc.</i>

4. PART C: How long information is to be kept

4.1. Constitutional legislation: PAIA (Promotion of Access to Information Act 2 of 2000)

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comments
All requested documents that cannot be found / do not exist	S55	Irrespective, if lost or does not exist, affidavit by IO that doc could not be found or does not exist	n/a	Investigate if practice rules were followed
Health records requested and knowledge of which could cause harm to requester	S61	As per HPCSA rules, or if also financial, as per financial legislation, disclosure however made to person nominated by patient whose records it is.	As per HPCSA (can be certified copies) or specific financial legislation	-
All personal information of persons deceased for longer than 20 years	S1	Can be retained, subject to specific legislation, but no longer "personal" 20 years after date of death	Not subject to any privacy rules	Not subject to any privacy rules
All documents listed in PAIA Manual	S3	Can be potentially requested and accessed. Should be retained to ensure access, as per law, consent or contract	As per specific law / contract / consent	-
Documents identified in PAIA Manual as subject to automatic access	S52	Documents must be retained as per specific rules, and removed from PAIA manual list once no longer available	As per specific law / contract / consent	-

4.2. Constitutional legislation: POPI Act

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comments
------------------------------------	---------------	---------------------	---------------------------------	----------

All documents	S9, s10	Consent, contract and/or notification to include periods of retention and destruction	-	Include retention & destruction periods into all relevant documents
All documents	S14	Retention of record / database must always be stipulated	Depending on record	As stipulated
Historical, statistical, research data (anonymized)	S14(2)	Can be retained for longer, provided that used for no other purpose (e.g. marketing, vigilance, etc.)	Depending on record	Indicated on specific database as historical, etc. with timeframe and identifiers removed
Deletion or destruction of a record	S14(4)	Must destroy / delete when no longer needed, as per stipulated / agreed periods or upon completion of a task	See Part A & B of this Policy	-
Requested deletion or destruction (request by person or persons whose personal information is / was processed)	S14(5); reg 3	If permissible (e.g. if. not against statutory retention period), person uses POPI Regs prescribed Form 2.	None	No original and no copy should be in existence, electronically or in hard copy
Documents / databases created from previous information	S13, s15	New consent or contract must set new retention period or law must be followed that sets retention period, if retention was not originally set	Depending on record	
Documents / databased allegedly processed unlawfully, is inaccurate, or destruction or deletion is opposed	S6 and s7	Retain until matters are resolved and then retain as required, amend or destroy / delete	Retain as per specific retention period.	

4.3. Health legislation: National Health Act 61 of 2003 & Regulations issued thereunder

Practice deals with patient information relating to a number of its brands as it supplies products directly to consumers / customers. This information includes clinical information, and as such constitutes a “health record”.

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Health records (incl notes from call centre, nurses, scheme motivations, etc.) and irrespective of held by Practice or an operator	S13	Record must be created and maintained . No regs yet as to duration of retention. Follow HPCSA rules. References Archives Act, but which only applies to records of “ enduring value ”, which records are transferred to the National Archive after 20 years , i.e. suppose 20 year retention.	Not stipulated	
Health records used for training, research	S16	If no individual details, no consent and keep as long as needed	Copies	
Health record changes & destruction	S17	Offence to not maintain and to destroy records unauthorized.	Originals & copies	
COVID-19 and other notifiable conditions	2017 Regs	Not prescribed, but as other health records (see below) and must be shared with regulators (NICD)	Not stipulated	
Cancer diagnosis	2011 Regs, Annexure A	Practice owner must report confirmed cancer diagnosis to NICD, must set up control measures to prevent unauthorized access. Assumes retention but not prescribed.	Not stipulated	

4.4. Health Legislation: Health Professions Act 56 of 1974, Ethical Rules & Booklets

The ethical rules and those contained in the Booklets are binding and a violation thereof could render professionals liable for charges of unprofessional or unethical conduct in terms of section 41 of the Act. It also provides the best practice guideline for health record retention, in the absence of regulations being issued under section 13 of the National Health Act.

Applicable document(s) / databases	Section / Reg / Clause-Booklet, ⁵ Ethical Rule (ER) nr	Period of retention	Original or copy to be retained	Comment
All health records	ER15	All retained records must be signed	Originals or certified	
Certificates & reports	ER16	Retained reports & certificates must include info listed	Originals or certified	
Prescriptions	ER17, ER23	Medicine: 5 years as per Meds Act Medical devices: not stipulated	Originals	
Adult health records [<i>may need to be described and split up into specific records</i>]	Clause 9.2	6 years after record becomes dormant (last visit of patient)	Originals or certified copies	
Records of children	Clause 9.3.1	When child becomes 21 years of age	Originals or certified	
Records of persons mentally incompetent	Clause 9.3.2	For duration of person's lifetime	Originals or certified	
Occupation health records (e.g. person who require oxygen equipment due to working in mine or polluted area)	Clause 9.4	20 years after treatment	Originals or certified copies	
Health records of conditions that could manifest only later (e.g. asbestosis) or where legal action would not prescribe (e.g. child abuse or assault)	Clause 9.6	25 years after last entry	Originals or certified copies	
Prescriptions	ER 17, also see Meds Act and General Regs below	6 years after record dormant, unless it involves treatment for a child, occupational health matter, etc.	Copy, as pt & pharmacist will have original	

4.5. Health legislation: Medical Schemes Act 121 of 1998

Applicable document(s) / databases	Section / Reg	Period of retention	Archiving rules	Comment
Claims to medical schemes and motivations that underpin it	Reg 5, 6 and 59; S47, 19 and 50	Claims must be made within 4 months, but schemes can claw back and investigate for periods or around 3 years after the claim was lodged. Complaints can be lodged at any stage, even years after non-payment of a claim, and records relating to claims, motivations, internal appeals, etc. is recommended to be kept for at least 5 years after decline of payment.	Not stipulated	Schemes in 59(3) matters require the acquisition documents of supplies, dispensing records, referrals, records relating to hospitalization.

⁵ Booklet 9 "Guidelines on the Keeping of Patient Records", September 2016.

4.6. Health legislation: Medicines and Related Substances Act 101 of 1965, Medical Device (“MD”) Regulations, 2016⁶ and General (Medicines) Regulations (“GR”), 2017⁷

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Prescriptions	GR reg 35	Medicines: 5 years or 5 years after last entry in a prescription book for dispensing doctors). No provision for device prescriptions or orders.	Copies of prescriptions; Book in original form	
Dispensing licence	S22C, GR reg	5 years , must be renewed so all application, updates and renewal documents to be kept for as long as Practice active	N/a	
Records relating to implantable devices	MD reg 26	50 years on date, purchaser, address, quantities, batch numbers Order records must be kept for 5 years after expected life of device	Not stipulated, but must be “permanent”	
Adverse event database	MD Reg 17, Guideline 8.04, Nov 2019	Must be maintained (i.e. ongoing), no retention period set, check device life. EU requires ongoing and 10 years after last product sale. Specify in Practice QMS.	Not stipulated	
Clinical research	S21, GR reg 30, MD reg 16, GCP ⁸ 2006	Records must be retained post the study – at least 15 years after study completion as per GCP Guidelines	Originals	
Records on destruction of device	MD reg 14	As determined by SAHPRA.	Not stipulated	
Records on destruction of medicine	GR reg 44	Must be destroyed by a pharmaceutical waste entity, who must issue a certificate to the practice. No retention period stipulated.		
Dispensing records	GR reg 35	Indefinitely (permanent) book with details set out in reg 35	Original, hard copy	
Books & records	S28	Inspectors can seize any record, retention rules to be clear if records are requested pertaining to medicines and/or any medical device in a practice	As and if stipulated for specific record	

4.7. Occupational health legislation: Occupational Health & Safety Act 130 of 1993

This applies to the practice and its staff:

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
------------------------------------	---------------	---------------------	---------------------------------	---------

⁶ GN 1515 of 9 December 2016: Regulations relating to Medical Devices and In Vitro Diagnostic Medical Devices (IVDS) (*Government Gazette* No. 40480).

⁷ GN 859 of 25 August 2017: General Regulations (*Government Gazette* No. 41064).

⁸ Department of Health South African Good Clinical Practice Guidelines, 2006.

All records (incl investigations, recommendations, minutes, etc.) of Occ Health & Safety Committee or the occupational health & safety officer	S20, reg 5 ⁹	Occ health committee or health & safety officer must keep records; must be kept for at least 3 years	Not stipulated	
Records relating to asbestos, lead, noise (incl medical surveillance & baseline records)	Various sets of Regs ¹⁰	40 years	Not stipulated	
Records relating to hazardous chemicals, air (incl medical surveillance & baseline records)	Regs ¹¹	Keep record for 30 years	Not stipulated	If employer stops activities, record to be handed to provincial Dept of Labour

4.8. Occupational health legislation: Compensation for Occupational Injuries and Disease Act 130 of 1993

This applies to the practice staff and patients suffering occupational injuries and/or diseases:

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Archiving rules
Employee (claimant) records. (earnings, time worked, overtime, etc.)	S81(2)	4 years after last entry , except where regs under OHS Act on specific conditions / sectors require differently (see below)	Not stipulated	
Employee records relating to re-opened claims	S7, Reg 5 ¹²	Not prescribed, but 4 years after last entry (i.e. after employment termination) may not suffice in all cases of all conditions. H&S consultants recommend 10 years .	Not stipulated	
Medical reports	S74	Not stipulated, but would have to be retained until patient claim is finalized and provider accounts settled. Due to potential re-opening, recommended 10 years after last event relating to claim.	Copy	Copy of report should also be available to the patient

4.9. Consumers / Patients: Consumer Protection Act 68 of 2008

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Intermediaries (e.g. sales agents, brokers)	S27, reg 10	3 years after document created: Intermediary must keep the records, co top ensure contractually that intermediary does so.	Copies or electronic formats	

⁹ GNR.929 of 25 June 2003: General administrative regulations, 2003.

¹⁰ GNR.236 of 28 February 2002: Lead regulations, GNR.307 of 7 March 2003 Noise-induced Hearing Loss Regulations, GNR.1196 of 10 November 2020: Asbestos Abatement Regulations.

¹¹ GN 1179 of 25 August 1995: Hazardous chemical substances regulations as amended.

¹² GN 1217 of 9 November 2018: Regulation on IOD/OD Documents to be provided by employers to Compensation Fund in administration of Claims Adjudication processes as per section 6A (b) and 40 (1) of the Act (*Government Gazette* No. 42021).

Competitions (all 18 pieces of information / documents as prescribed)	S36, Reg 11	3 years, but note SAMED Code requirement of 5 years where competition relates to the medical device business.	Not stipulated	After SAMED period of retention
Fixed-term consumer agreements	S14	Not stipulated in CPA but see National Credit Act below. General rule of not retaining for longer than necessary, and consents (e.g. if person added to a general consumer database for future marketing) must be considered	Not stipulated	As per co policy and NCA

4.10. Consumers / Patients: National Credit Act 34 of 2005

Applicable document(s) / databases	Section / Reg ¹³	Period of retention	Original or copy to be retained	Destruction rules
All documents to create credit agreement, debt review documents (see list in reg 55(1)(b))	S170, Reg 55	3 years after document created	Not stipulated	
Agreement / contract / applications (signed Ts&Cs / billing notices / agreements to r(e)pay)	S170, Reg 56	3 years after termination	Not stipulated	
All judgements	Reg 17(1)	5 years or until judgement is rescinded	Not stipulated	

4.11. Business legislation: Broad-based Black Economic Empowerment Act 53 of 2003, the Code of Good Practice, 2013

B-BBEE verification is an annual process. However, disputes in relation to verification, and delays in finalisation of verification scores necessitates the keeping of records for at least two years after a financial year-end as verification is on previous completed financial year and may take longer than 6 months. Appealing an allocated score sometimes necessitate referring to previous records relating to previous verifications. Many of the records in any event have to be kept in terms of other legislation for longer. However some records, such as in-kind contributions, or attendance registers that include race, gender and nationality details, may not be routinely retained for periods beyond, for example, a congress or a meeting.

Applicable document(s) / databases	BEE Code Series (for large practices)	Period of retention	Original or copy to be retained	Comment
[Practice may have documents it retains as part of its BEE project that needs to be included here as well]		Recommended at least two years after end of each financial year.		

¹³ GNR.489 of 31 May 2006: Regulations made in terms of the National Credit Act, 2005 as amended.

Management control documents: Directors & minutes of Board meetings	200	As per Companies Act (see below)	Originals	
Employment Equity	200	As per EE Act and Regs (see below)	Originals	
Skills Development: Internal (Meeting agenda's materials, attendance registers, certificates, travel records, expenses, etc.)	300	As per SDA and Regs (see below), and for all other supporting documentation recommended at least two years after end of each financial year.	Originals	
Skills Development: external (Meeting agenda's materials, attendance registers, certificates, travel records, expenses, etc.)	300	As per SDA (see below) and for all other supporting documentation recommended at least two years after end of each financial year.	Originals	
Enterprise & supplier development (invoices & payment records to provide spend; contracts, proof of spend on development, photographs, letters, testimonials)	400	As per financial record-keeping criteria & financial legislation (see below), non-financial records recommended at least two years after end of each financial year.	Originals	
Socio-economic development records (contracts, donation & other policies, records of donates time, photographs, letters, testimonials, etc.)	500	As per financial record-keeping criteria & financial legislation (see below), non-financial records recommended at least two years after end of each financial year.	Originals	

4.12. Business Legislation: Companies Act 71 of 2008

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
AGM reports, AFS, accounting records; Notices, minutes, resolutions of shareholder meetings; all shareholders documents in relation to a resolution	S24(3)(c) & (d)	7 years after date of event	Originals in hard copy at a location in RSA	
MOI, rules and certificate of incorporation	S24(3)(a)	"maintained", i.e. keep indefinitely	Originals in hard copy at a location in RSA	
Directors	S24(3)(b)	As at any point in time, i.e. "maintained" Past directors: 7 years	Originals in hard copy at a location in RSA	
General shareholder communications	S24(3)(e)	7 years after date of communication issued	Originals in hard copy at a location in RSA	
Board of Directors meetings & resolutions, Directors and Board Committees	S24(3)(f)	7 years after meeting or date of resolution adopted	Originals in hard copy at a location in RSA	
Shareholders register	S24(4)(a)	Indefinitely , i.e. "maintained"	Originals in hard copy at a location in RSA	
All other documents, accounts, records, etc. required by Companies Act	S24(1)	7 years , unless another law requires a longer period.	Originals in hard copy at a location in RSA	
Board / Practice Code of Conduct, Terms of Reference, etc.	King IV	Not prescribed, unless approved as part of above documents, then retain for 7 years	Not prescribed	

4.13. Business: Competition Act 89 of 1998

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Minutes of association meetings relating to matters of coding and conditions of trade; Practice records on considerations regarding setting of fees, price files, fee lists, etc; contracts with suppliers, including documentation relating to the negotiation thereof; market share data; special deals and arrangements with suppliers and documents relating to the negotiation of pricing (acquisition costs, fees, etc.); all agreements or arrangements that are exclusive; notes / records of competition law objections, etc. as proof of exclusivity. Competition law training records.	S77	Not prescribed, but how fees have been set independently from other practices and professional associations may be needed by Practice to defend competition law complaints or to provide information when Commission or Tribunal so requires. Recommended retention period of 10 years .	Format not relevant, i.e. can be electronic	

4.14. Business legislation: Electronic Communication and Transactions Act 25 of 2002 (“ECTA”)

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
All electronic documents or documents saved in electronic versions	S11	Not without legal force and effect only because it is electronic. Usual retention periods for that type pf document would therefore apply	Not necessarily, unless so. prescribed	
Documents containing signatures	S13	Documents where parties agree on e-signatures or where advanced signatures ¹⁴ are used are valid and can be retained as hard-copies are / would have. Any electronically affixed signature not <i>per se</i> invalid. Note some contracts or documents require a “wet signature” meaning not electronic	Electronic	
Requirement that a document must be “In writing”	S12	Can be in form of a data message (i.e. electronic) and can be retained same as hard copy “in writing”. Note difference of “by hand”.	Electronic	
All documents that require retention	S16	As long as electronic record is accessible and represents accurately that document (e.g. could not have been changed afterwards), and origin and destination could be established, then retention as per stipulated and applicable period would be valid. ¹⁵	Electronic	
Documents required by legal processes, inspectors, etc,	S17, s28	Electronic form acceptable if electronic document reliable and accessible / usable for its purpose, and provided document is unaltered	Electronic	

¹⁴ A signature recognize ito s37: **Accreditation of authentication products and services.**—(1) *The Accreditation Authority may accredit authentication products and services in support of advanced electronic signatures.*

(2) *An application for accreditation must—*

(a) *be made to the Accreditation Authority in the prescribed manner supported by the prescribed information; and*

(b) *be accompanied by a non-refundable prescribed fee.*

(3) *A person falsely holding out its products or services to be accredited by the Accreditation Authority is guilty of an offence.*

¹⁵ A good example here is the HPCSA rules on health records. If electronically kept, must eb kept as at a point in time, i.e. cannot be in a word-version, for example, that could be changed afterwards. Software that tracks changes and immortalize documents in points in time are therefore preferred.

Documents requiring Notarisation, acknowledgement and certification	S18	Can be validly done by advanced electronic signature, also where hard copy is required such certified electronic copy would be value	Electronic	
Agreements	S22	Not invalid purely because entered. into electronically, provided that no agreement to contrary entered into by parties, e.g. that wet signature into s21.	Electronic, unless agreed to be parties that not electronic	

4.15. Finance: Tax Administration Act 28 of 2011

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Returns, whether required to be submitted or not and. underpinning records	S29, s30	5 years after the date of submission / required submission / not required submission	Originals	
Records subject to, or aware of possible audit and/or subject to an appeal	S32	Until audit / appeal is concluded	Originals	

4.16. Finance: Income Tax Act 58 of 1962

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
All payroll, payroll calculations (deductions, benefits, etc.), returns, and all related info (EMP's)	Item 14, 4 th Schedule as gazetted ¹⁶	5 years from date of submission to SARS	Originals or. as prescribed by the SARS Commissioner.	

4.17. Finance: Value Added Tax Act 89 of 1991

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Records of goods / services supplied, invoices, credit notes, charts & codes of account, bank statements, etc., all customs documents,	S55, s15, s16, s20	5 years from date of submission of return	Originals, if for invoices not available, marked "copy"	

¹⁶ <https://www.sars.gov.za/AllDocs/LegalDoelib/Notes/LAPD-IntR-IN-2012-14%20-%20Allowances%20Advances%20Reimbursements.pdf>.

4.18. Labour legislation: Basic Conditions of Employment Act 75 of 1997 and the regulations¹⁷ thereto

Applicable document(s) / databases	Section / Reg ¹⁸	Period of retention	Original or copy to be retained	Comment
Written particulars of employment as listed in s29, incl all contracts and documents pertaining to the contract.	S29	3 years after termination of employment.	Not specified but must be in writing	
Certificate of service	S42, Reg 6	On employee file, 3 years after employment	Copy	
As long as employed, name & occupation, time worked, remuneration, dob, etc,	S31	3 years after last entry on record	Not specified	
Remuneration records as stipulated by s33: name 7 address, occupation, remuneration, period of salary, amounts, deductions & reasons therefor, actual amount paid, rate and overtime rate, hours worked, workplace, working hours	S33	3 years, but note EEA on pay differential reports if EE Plan runs 5 years or longer, and obligation to keep EE information for 5 years after last entry.	Not specified	
Sectoral determinations	S58	For as long as determination is applicable	Not specified	
Any record to which employment relates	S66	May be requested and must provided to a labour inspector. Documents for which no retention period is prescribed to be retained as per co policy	Not specified	
All records under BCEA	S76	Employer to prove authenticity	If no originals, certificates that copies are true	

4.19. Labour legislation: Employment Equity Act 55 of 1998

Applicable document(s) / databases	Section / Reg ¹⁹	Period of retention	Original or copy to be retained	Comment
All records that fall under EEA (including data on race and other grounds of no unfair discrimination & required data fields in EE Plan and EE Report; Employee declaration on gender, race, nationality & disability	S26, EEA1	Must be maintained, and retained for prescribed periods		
Workplace policies and procedures pertaining to employment	S5, s15, reg 8(4)	If analysis shows amendments required, all to be retained plus analyses for 5 years after EE Plan Expiry	Not prescribed	After longest retention period
EE Plan (duration of min 1 year and max 5 years) & all underpinning documents, e.g. employment records, payroll records, employment stats (country, province, professions, etc.)	S20, reg 9 EEA13	5 years after plan expiry	Not prescribed	

¹⁷ GNR.1438 of 13 November 1998: General Administrative Regulations as amended on 22/03/2002; 25/07/2002 and 12/03/2010

¹⁸ GNR.1438 of 13 November 1998: General Administrative Regulations as amended.

¹⁹ GNR.595 of 1 August 2014: Employment Equity Regulations, 2014 (*Government Gazette* No. 37873). as amended.

EE Report and all supporting documents (not Report is public (therefore subject to PAIA), and only income differential information is confidential)	S21, Reg 10	Not prescribed, but as it informs EE Plan and progress in it, would have to be retained for 5 years after expiry of Plan with all reports pertaining to that plan	Not prescribed	
Recruitment (incl applicants & all interviewees), promotion & training records (also of former employees), harassment	S5, s6, s19, s51	To be able to address matters of alleged discrimination on listed grounds, records relating to lawful consideration of race, gender, etc. is recommended to be kept for at least 5 years after event , longer if archiving is possible due to possible criminal charges in harassment cases and human rights aspects of complaints	Not prescribed, and generally complaints must be lodged within timelines stipulated by e.g. LRA	
Minutes & supporting documents of EE Committee, consultation with general staff	S16	As per each EE Plan and each EE Report to which engagements pertain	Not prescribed	After retention period
Compliance orders	S37, Reg 14, EEA6	An inspector. May require records to be kept, and such order must be followed	As ordered	As ordered

4.20. Labour legislation: Employment Tax Incentive Act 26 of 2013

This Act establishes the ETI, and its actual administration is under the Income Tax Act, the Tax Administration Act and the SARS Act. Retention of documents must therefore follow those Acts (in general 5 years after submission to SARS or indefinitely where submission had to be made to SARS but were not and then 5 years after actual submission, etc.).

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Records of qualifying employees	S6	Not prescribed, but proof of qualifying criteria relating to employee to be maintained and retained at least 5 years after termination or 5 years after the date when employee no longer qualifies (e.g. older than 29 years, wages exceed that set out in section 4, etc.	Not stipulated	

4.21. Labour legislation: Labour Relations Act 66 of 1995 (LRA)

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Collective agreement, arbitration award, determination made in terms of Wage Act, strikes and lock-outs	S205	At least 3 years from date of event / agreement's end.	Original or reproduced	After period of retention
Disciplinary record indicating nature of any disciplinary transgressions, the actions taken by the employer and the reasons for the actions	Clause 5, Schedule 8	Not specified, but required under EE Report (i.e. 5 years after expiry of EE Plan). Note letters of written warning may have to be removed based on co policy. Matters relating to ill health may have to be kept in occupational health legislation, and matters relating to harassment and discrimination according to the EEA.	Not stipulated	After period of retention

Mandatory disclosure information for workplace forums;	S89	In order to disclose information required by workplace forums, such information would have to be retained. No periods prescribed, but may relate to documents such as financials that have to be retained under companies' legislation, tax legislation & employment laws.	Not prescribed	After period of retention
Mandatory disclosures in cases of proposed retrenchments	S189 & 189A			
Trade union access to information	S16			
Privileged information, confidential information of which the disclosure would cause harm, employee personal information, non-disclosure by law or court order	S16(5)	Although retained for periods as prescribed, and potentially accessible under above sections, cannot be disclosed under s16, s89, and 189 & 189A.	As prescribed in other legislation or orders	As per relevant law, order, consent

4.22. Labour legislation: Unemployment Insurance Fund Act 63 of 2002

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Name, id nr, address of employment & monthly remuneration	As per Income Tax Act	5 years after submission to SARS	Not specified	

4.23. Insurance: Pension Fund Act 24 of 1956

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Board of a Fund to ensure all records kept	S7D	Must be kept properly and in accordance with legislation governing that type of record	As per specific law	
Pension Fund rules	-	Indefinitely due to its application many decades after its creation / when an employee retires and thereafter	As per specific law	

4.24. Insurance: Short-term Insurance Act 53 of 1998

Applicable document(s) / databases	Section / Reg	Period of retention	Original or copy to be retained	Comment
Policies, documents on claims, etc.	Not specifically governed	Not regulated, but retain for at least 4 years after policy expiry and for claims documents 3 years after claim has been finalised (ito prescription legislation and Income Tax Act)	Not provided	

5. PART D: Contract retention and management

The overriding POPI Act criterion, i.e to only store personal information as long as necessary applies to the personal information included in a contract. Some contracts may have to be retained for longer than its effective life, namely for business purposes, should a relationship with a contractual party

have to be re-established, for audit purposes (often linked to financial transactions and requirements, e.g. invoicing and payment), as stipulated in labour law, etc.

Follow above tables where specific contracts are concerned involving statutory periods. Also see above on ECTA.

Applicable document(s) / databases	Period of retention	Original or copy to be retained	Comment
Contracts that involves statutory retention periods	Retain for period that is longest, i.e. contract implementation, contract agreement, prescription or specific legislation (e.g. a principal investigator contract in a clinical trial should be retained indefinitely, as well as trials documents such as consents)	As specified in legislation or a per Practice rules or as per. ECTA	
Contracts with suppliers, rentals, leases, equipment, etc.	At least 3 years after contract terminated	As specified in legislation or a per Practice rules or as per. ECTA	
Non-disclosure agreements	Indefinitely	As specified in legislation or a per Practice rules or as per. ECTA	
Consents signed by practitioner	At least 3 years after period to which consent pertain	Original or valid electronic version / copy	
