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1. Purpose of this document

This document highlights the importance of record-keeping as required by the Protection of Personal Information Act (POPIA), the Policyholder Protection Rules (PPR) and the Promotion of Access to Information Act (PAIA). It includes examples of essential documents like customer consent forms and policy documents and outlines the penalties for non-compliance, such as fines and legal action. Proper record-keeping ensures legal compliance and builds trust with stakeholders.

2. What does the Protection of Personal Information Act (POPIA) say about record-keeping?

POPIA addresses record-keeping in Section 14 of the Act. This section outlines the requirements for the retention and restriction of records of personal information. Here are some key points:

Retention period	Records of personal information should not be kept longer than necessary for the purpose for which they were collected unless required by law, contract, or with the consent of the data subject.
Exceptions	There are some exceptions where information can be kept for longer: <ul style="list-style-type: none"> • If required by law • If needed for a contract • If the person whose information it is (the data subject) has given consent • For historical, statistical, or research purposes, provided there are safeguards in place.
Accuracy and access	If personal information has been used to make a decision about an individual, it must be retained for a period that allows the individual to access it if needed
Destruction	When the information is no longer needed, it must be destroyed in a way that it can't be reconstructed.
Restriction of processing	If the accuracy of the information is contested, or if it's no longer needed but must be kept for proof, its use should be restricted.

3. What do the Policyholder Protection Rules (PPR) say about record-keeping?

In South Africa, Rule 16 of the PPR pertains to record-keeping and is intended to ensure that insurers maintain accurate and comprehensive records of their interactions with policyholders.

This rule mandates that insurers must maintain all policy-related communications and records for at least five years after the policy ends.

Here are the key points:

Purpose	The main goal is to ensure transparency and accountability in the insurance industry, protecting policyholders' interests.
Requirements	Insurers must keep detailed records of all communications, transactions, and decisions related to policyholders. This includes policy documents, claims, complaints, and any other relevant interactions.
Retention period	Records must be kept for a specified period, often several years, to comply with regulatory requirements and facilitate audits or investigations if needed.
Accessibility	These records should be easily accessible and retrievable for review by regulatory authorities or for resolving disputes.
Compliance	Insurers must have systems in place to ensure compliance with these record-keeping requirements, including regular audits and updates to their record-keeping practices.

4. PAIA – The customers’ right to their personal information

The Promotion of Access to Information Act (PAIA) plays an important role in ensuring transparency and accountability in both public and private sectors. For private bodies, including brokers, PAIA requires the compilation and implementation of a PAIA manual. This manual, as stipulated in section 51 (amended by section 110 of POPIA), must be readily accessible and detail the procedures for individuals to request and access their personal information held by the organization.

Effective record-keeping is furthermore a fundamental requirement for compliance with PAIA. It ensures that all necessary information is accurately documented, stored, and retrievable, facilitating the process of responding to information requests. By maintaining comprehensive and organized records, private bodies can uphold the principles of PAIA, thereby promoting openness and protecting individuals’ rights to access their personal information.

Here are the key points:

Purpose	The purpose is to have a manual in place that outlines the procedures for individuals to request and access their personal information held by the organization.
Requirements	Private bodies, including brokers must prepare and maintain a manual that outlines the procedures for requesting access to records and ensure that it is easily accessible to the public. This manual must include details about the types of records held, the process for requesting access, and the contact information of the information officer.
Accessibility	The PAIA manual must be easily available to the public. This ensures that individuals can readily find the information they need to request access to their personal records.
Compliance	The organization’s PAIA manual must be easily accessible to the public. This manual must be regularly updated to reflect any changes and include clear procedures for individuals to request access to their personal information, thereby promoting transparency and accountability.

5. Record-keeping documents

Taking the above into consideration, let us deep dive into the PPR requirements of what records must be kept.

5.1 Claims

<i>PPR Rule 17.3.1 (f)</i>	<p>Requires the claims management framework to provide for appropriate claims record-keeping.</p> <p><i>17.3.1 The claims management framework must, at least, provide for:</i></p> <ul style="list-style-type: none"> <i>(f) appropriate claims record-keeping; monitoring and analysis of claims; and reporting (regular and ad hoc) to the executive management, the board of directors and any relevant committee of the board on:</i> <ul style="list-style-type: none"> <i>(i) identified risks, trends and actions taken in response thereto; and</i> <i>(ii) the effectiveness and outcomes of the claims management framework.</i>
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<i>PPR Rule 17.7.2</i>	<p>Requires the insurer to record, in respect of each claim received, the relevant details of the claimant and the subject matter of the claim.</p> <p><i>17.7 Record-keeping, monitoring and analysis</i></p> <p><i>17.7.2 The following must be recorded in respect of each claim received:</i></p> <ul style="list-style-type: none"><i>(a) all relevant details of the claimant and the subject matter of the claim.</i><i>(b) copies of all relevant evidence, correspondence and decisions; and</i><i>(c) progress and status of the claim, including whether such progress is within or outside any set timelines.</i>
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<p>Claims documents that you need to keep a record of</p> <p><i>*The documents listed are examples of the types of information and records that must be retained. This list is not exhaustive.</i></p>	<ul style="list-style-type: none"> • First notification of loss • Validation • Reporting of outside mandate matters • Use of preferred suppliers • Salvage administration • Third-party and recoveries management • Payment and authorization process • Treat Customers Fairly (TCF) and complaints process. <p>To ensure appropriate records and data are kept, the following documents would generally form part of the oversight of documentation performed during reviews:</p> <p>Claims-related documentation</p> <ul style="list-style-type: none"> • Claims summary considered • All types of communication, emails, and notes on the systems which may include: <ul style="list-style-type: none"> ○ Claim forms ○ Policy schedules ○ Premium confirmation ○ Claims history • Claims supporting documentation which may include: <ul style="list-style-type: none"> ○ Quotes ○ Damage reports ○ Cause of loss (information/confirmation) ○ Photos ○ Valuation certificates ○ Proof of ownership ○ Details of salvage ○ Third-party information ○ Invoices ○ Personal information such as license or registration documentation ○ Diary and follow-up communication which is used to keep the insured informed • Assessors, loss adjusters or specialist reports • Validation checklists • Agreements of loss • Source-signed certificates • Payment requests • Evidence of payment process and sign-off/delegated authority • Payment confirmation
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5.2 Underwriting

PPR Rule 16	<p>A document management (electronic filing) system (DMS) must be in place and maintained to ensure the integrity of the policy data throughout all processes. Policy administration standards and disciplines must be documented, implemented, and maintained at all times. All documentation must be recorded and stored in chronological order to make it easily retrievable. If calls are voice-logged, they also need to be appropriately stored, easily retrievable, and of good quality. Documentation is to be stored for five years from policy cancellation.</p>
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<p>Underwriting documents that you need to keep a record of</p> <p><i>*The documents listed are examples of the types of information and records that must be retained. This list is not exhaustive.</i></p>	<ul style="list-style-type: none"> • Quoting • New business • Mid-term amendments • Corrective action • Renewals • Cancellations/lapses of policies <p>To ensure appropriate records and data are kept, the following documents would generally form part of the oversight of documentation performed during reviews:</p> <p>Underwriting related documentation</p> <ul style="list-style-type: none"> • All types of communications such as letters, emails and system notes, and referral to a the short term insurer. • Supporting documentation that may include: <ul style="list-style-type: none"> ○ Inventories, asset surveys, commercial risk surveys ○ Identity documents, registration papers, driver’s license, photos of vehicle ○ Tracking certificates, valuation certificates, invoices, offer to purchase, engineer’s reports, AA reports, photos of high-value items ○ Verification of the value of the vehicle from Mead and McGrouther (M&M) vehicle valuation tool ○ Diary and follow-up communication which is used to manage outstanding information/documentation from the client • Renewal terms sent out 31 days before renewal together with any Value-add product (VAP) brochures being offered • Corrective action that was taken and advised to the client 31 days before the effective date • Request from the client to cancel policy/policy section/item • Cancellation by insurer and confirmation of receipt by the client • Packs attached to the letter sent after each transaction to ensure they are sent within 31 days of inception of policy/item and that the relevant policy document is attached.
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5.3 Compliance-related documents

<p>Compliance documents that you need to keep a record of</p> <p><i>*The documents listed are examples of the types of information and records that must be retained. This list is not exhaustive</i></p>	<p>Compliance – Legislative and Governance</p> <ul style="list-style-type: none"> • New business needs analysis/record of advice • FAIS Disclosure • Consent to charge a broker fee • Consent to carry out an insurance risk score • Renewal terms being sent out 31 days before renewal, record of advice, consent to charge an increased renewal broker fee • Packs attached to the letter sent after each transaction ensuring compliance with PPR disclosure requirements • Treating Customers Fairly and training • Complaints Policy and Register • Disaster Recovery Plan/Business Continuation Plan • Document Management Policy - disciplines and standards related to naming conventions of all documentation retained • POPIA policy and training • Conflict of Interest Policy
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	<ul style="list-style-type: none"> • Competence and Skills Register • Compliance Officer • Disclosure requirements • Financial attestation <p>People</p> <ul style="list-style-type: none"> • Organogram • Product-specific knowledge and training <p>Standard Operating Procedures</p> <ul style="list-style-type: none"> • Personal and Commercial Underwriting • Claims
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6. Penalties for non-compliance

Non-compliance with POPIA, PPR, and PAIA can have several significant impacts and implications on a business. Beyond the legal penalties, which can include fines of up to R10 million or imprisonment for up to 10 years, businesses may suffer reputational damage as news of data breaches or privacy violations can quickly spread, leading to a loss of trust among customers, partners, and stakeholders. This erosion of credibility can result in customers taking their business elsewhere, impacting revenue and long-term sustainability. Financial implications are also considerable, as non-compliance can lead to costly legal battles, regulatory investigations, and compensation claims from affected individuals, severely impacting the business's bottom line.

Additionally, addressing the aftermath of a data breach or non-compliance incident can disrupt normal business operations, diverting resources from growth and innovation to rectifying compliance issues, leading to inefficiencies and delayed progress. Increased scrutiny from regulatory bodies can result in more frequent audits and inspections, which are time-consuming and resource intensive. In severe cases, responsible individuals within the organization may face criminal charges, leading to further legal complications and potential imprisonment. Ensuring compliance with POPIA, PPR, and PAIA is essential not only to avoid these significant penalties but also to maintain trust and integrity in business operations.