EVERYDAY LEGAL
SOLUTIONS

FREE GUIDE · BUSINESS LEGAL HEALTH

Legal documents every South African small business needs (by stage)

Most South African small businesses need between five and ten core legal documents, but not all at once. What you need depends on your stage: taking on clients, using freelancers, bringing in a co-founder, hiring staff and handling personal information each add documents. Some are required by law. Others aren't legally required but are what protects you in a dispute.

REVIEWED BY THE ELS TEAM

Build on solid legal ground

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AT A GLANCE

- Most small businesses need **five to ten core documents**, added as the business grows.
- **POPIA documents and a PAIA manual** apply to almost every business from day one.
- An employment contract's written particulars are **required from your first hire**.
- Client, contractor and founders' agreements aren't legally required, but they **protect you in a dispute**.

The documents by stage

YOUR STAGE	DOCUMENTS YOU NEED	REQUIRED BY LAW?
You hold anyone's personal information (almost every business)	POPIA privacy notice, POPIA internal policy, PAIA manual	Yes: POPIA and PAIA
You have a website or sell online	Website terms and conditions, privacy notice	ECT Act disclosures if you sell online; privacy notice under POPIA
You take on paying clients	Client services agreement, confidentiality agreement (NDA)	No, but it's your evidence of what was agreed
You give professional advice	Liability cap clause in your client agreement	No, but it limits your exposure if advice turns out to be wrong
You use freelancers or contractors	Independent contractor agreement; IP ownership addendum for tech and creative work	No, but without a written assignment you may not own the work you paid for
A service provider handles personal data for you	POPIA operator agreement	Yes: POPIA requires a written contract
You have co-founders or investors	Founders' / shareholders' agreement	No, but without one a falling-out has no rulebook
You hire your first employee	Employment contract	Yes: the BCEA requires written particulars from day one
The public visits your premises	Safety, CCTV and POPIA signage	Depends on your premises and activities

Documents almost every business needs

POPIA and PAIA documents

If your business holds personal information about anyone (clients, customers, employees, suppliers' contact people), the Protection of Personal Information Act (POPIA) applies. There's no small-business exemption. At a minimum, that means:

- **A privacy notice** that tells people what you collect, why, who you share it with and what their rights are.
- **An internal POPIA policy** that sets out how your business actually handles personal information day to day.
- **A PAIA manual,** which every private body has needed since 1 January 2022, whatever its size. Read our PAIA manual guide.

Website terms and conditions

If you sell goods or services online, the Electronic Communications and Transactions Act (ECT Act) requires you to publish specific information on your website, such as your full business details, prices, delivery and returns terms, and cancellation rights. Website terms are the usual place for these disclosures. Even if you don't sell online, terms of use set the rules for people using your site.

When you take on clients

Client services agreement

Emails and a quote can form a contract, but they rarely cover what matters when something goes wrong: scope, payment terms, late payment, changes to the work, cancellation and who owns the deliverables. A client services agreement puts this in one place before the work starts.

Confidentiality agreement (NDA)

South African law doesn't automatically stop someone from using information you share with them during a pitch, a partnership discussion or a project. An NDA sets out what's confidential, how it may be used and for how long.

Liability cap (professional services)

If you give advice (consulting, accounting, design, architecture, coaching), a liability cap limits how much you can be held liable for if a client suffers a loss. It's added to your client agreement.

When you work with freelancers and contractors

Independent contractor agreement

A contractor agreement records that the relationship is genuinely an independent one, not disguised employment. The label alone doesn't decide this: what matters is how the relationship works in practice. Read how the CCMA and SARS decide.

IP ownership addendum

Under the Copyright Act, an assignment of copyright must be in writing and signed. Without one, a freelance developer, designer or writer may keep ownership of the work you paid for. For tech and creative businesses, this is often the most disputed issue in a project.

POPIA operator agreement

If a service provider processes personal information on your behalf (a payroll provider, a cloud CRM, a mailing tool, an outsourced bookkeeper), POPIA requires a written contract that obliges them to keep that information secure.

When you have co-founders or investors

A founders' or shareholders' agreement isn't required by the Companies Act, but it's the document that decides what happens when founders disagree, someone wants to leave, a founder stops contributing or an investor comes in. It covers ownership, decision-making, leaver terms, deadlock and the transfer of shares.

> **Keep it consistent with your MOI.** A shareholders' agreement must fit with your company's Memorandum of Incorporation, which takes priority where the two conflict.

When you hire your first employee

The Basic Conditions of Employment Act requires you to give every employee written particulars of employment on the day they start: pay, hours, leave, notice and more. A written employment contract is the practical way to do it, and your employees' personal information brings POPIA into play too. See the full checklist.

When the public visits your premises

Shops, gyms, restaurants, clinics and event venues usually need visible notices: safety signage, CCTV and POPIA notices where cameras are used, and any risk notices you rely on. What you need depends on your premises and activities.

Where to start

You don't need every document on day one. Start with what the law requires for your stage, then add the documents that protect you where your real risks are: your clients, your people and your ownership.

Find out what your business is missing

The free **Legal Health Check** takes about five minutes and shows which of these documents you need, and why. Already know? The **Essential Legal Starter Pack** covers a business with co-founders, clients and contractors, and the **Business Protection Pack** adds your first employee and full core POPIA coverage.

TAKE THE FREE LEGAL HEALTH CHECK

BROWSE DOCUMENTS AND PACKAGES

INFORMATION, NOT ADVICE

ELS provides legal information, not legal advice. Nothing in this guide creates an attorney-client relationship. For advice on your specific situation, consult a qualified attorney. The law is stated as at 23 September 2026.

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Attorney-drafted legal documents and plain-English legal information for South African businesses. Not sure what your business needs? Take the free Legal Health Check.

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