



FOR PSA MEMBERS: **MPUMALANGA, NORTHERN CAPE, AND NORTH WEST**

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High cost of *WhatsApp* forward

In workplaces and homes across South Africa, *WhatsApp* has become the default communication platform. Its speed and convenience create a perception of informality. In law, it is neither informal nor private. Forwarding a message constitutes republication. When you share content, you assume the same legal responsibility as the original author. Liability attaches to the act of distribution. For PSA members, the exposure is significant. Professional credibility, contractual obligations, and continued employment depend on disciplined digital conduct. South Africa's statutory framework, including the *Cybercrimes Act* and *POPIA*, imposes direct accountability for online misconduct.

Criminal liability: *Cybercrimes Act 19 of 2020*

The *Cybercrimes Act* criminalises the unlawful disclosure of harmful data messages. Its scope extends beyond hacking and cyber fraud. It applies to ordinary users who circulate prohibited content. The *Act* prohibits distribution of content which:

- Incites violence or threatens damage to property.
- Discloses intimate images without consent.
- Constitutes malicious communications intended to cause emotional, psychological, or reputational harm.

Section 16 specifically criminalises the disclosure of intimate images without consent, even where the image was initially shared voluntarily in a private context. Consent to receive does not equal consent to distribute. In *KS v AM and Another* [2024], the Court addressed the violation of dignity and privacy arising from threats to distribute intimate material. The judgement reinforces that digital abuse attracts serious legal and financial consequences.

Defamation and chain of sharing

Defamation arises when a false statement damages a person's reputation. In South African law, publication includes sharing or forwarding content created by another party. The Constitutional Court in *Manuel v EFF* [2019] confirmed that defamatory statements on social media warrant substantial damages. Digital platforms do not dilute accountability.

WhatsApp group administrators occupy heightened position of control

With the capacity to delete messages for all participants, administrators may bear a duty of care. Failure to remove defamatory, racist, or unlawful content can expose the administrator to co liability. For PSA members, circulating unverified allegations about colleagues or management creates exposure to civil claims and disciplinary proceedings.

POPIA: Privacy as statutory right

The *Protection of Personal Information Act* safeguards personal data. Phone numbers, identity numbers, addresses, payroll details, and health information constitute protected information. **Sharing such data in a group without lawful basis or consent amounts to unlawful processing.** Leaking screenshots of private conversations, particularly where these contain sensitive information such as health status or trade-union affiliation, may trigger investigation by the Information Regulator. Administrative fines may reach R10 million. Criminal sanctions are also available under certain circumstances. *Doxing*, defined as exposing private details to encourage harassment or intimidation, intersects with both *POPIA* and the *Protection from Harassment Act*.

Films and Publications Amendment Act: Warning for families

The non-consensual distribution of intimate images, including AI generated deepfakes, is a criminal offense. The *Act* provides for fines of up to R300 000 and/or imprisonment of up to four years where such distribution is intended to cause harm or distress. Parents must educate children on the permanence of digital content. Disappearing messages do not eliminate risk. Screenshots create enduring records. A single impulsive act can result in a criminal record with long-term consequences for education and employment.

Advice to PSA members

Verify before forwarding. If content provokes outrage, panic, or reputational harm, confirm its accuracy through credible sources. Exercise administrator responsibility. Establish written group rules. Remove unlawful content immediately. Record corrective action where necessary.

Respect workplace boundaries. Avoid sharing internal grievances, confidential documents, or sensitive employment matters in social groups. Such conduct frequently constitutes bringing the employer into disrepute.

Dissociate from unlawful environments. If a group becomes a channel for illegal or defamatory content, exit the group and clearly state your reason for doing so. Visible dissociation limits potential liability. Digital conduct is subject to the rule of law. Each forward is a legal act. Each screenshot carries consequence.

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