# Snap with Caution: Navigating the Legal Pitfalls of Digital Photography and Videography

People commonly post images and videos without thinking about the legal ramifications in today's digital environment, which is dominated by social media and digital marketing. Sharing without consent can have legal ramifications, whether it's parents sharing pictures of their kids' sports or school activities on Facebook or influencers filming and shooting in public areas. The sharing and distribution of photographs and personal information are governed by the Films and Publications Act and the Protection of Personal Information Act (POPIA).

It is important to understand our privacy laws and its harmonious relationship to filming. Section 14 of the South African Constitution protects the right to privacy, covering both physical and informational privacy. This implies that people have the right to manage how their photographs and personal data are shared. Influencers and content producers need to understand that recording someone without their permission might have legal repercussions, which could include a complaint to South Africa's Information Regulator or even civil lawsuits for invasions of privacy, particularly if the footage is distributed on social media.

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There are certain exceptions to this, specifically when it comes to public spaces and private spaces. Public spaces generally allow free access for photography and videography. Privacy laws allow photography in public spaces, where there is no reasonable expectation of privacy. However, it is against the law to take pictures without permission in private spaces like restrooms, changing rooms, medical facilities, or private homes. Here, people's right to privacy are safeguarded.  In this sense, sharing photos in places where individuals have a legitimate expectation of privacy—like homes, restrooms, or schools—requires the consent of the data subject. A person's right to privacy may be violated if they are filmed in a private setting without their permission. It is therefore advisable to first obtain consent.

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Parents sharing photos of their children's activities online would not necessarily require consent from others appearing in such pictures provided that such pictures were taken in a public area where there is a limited expectation of privacy. This does not indemnify you from sharing pictures of others with malicious intent. In such an event, the said data subject may request that the picture be removed, failing which they may approach the Information Regulator, which is an independent body established in terms of POPIA for the monitoring and enforcement of compliance with the Act, for you to remove such picture.

The Films and Publications Act 65 of 1996, on the other hand, regulates the distribution of films, videos, and digital media, and seeks to regulate content, particularly when it may be dangerous, explicit, or misleading. People who take videos and distribute it must guarantee that their content does not infringe the Film and Publication Board's classification guidelines. The Act also makes it illegal to distribute harmful or explicit content, including anything that encourages hate speech, violence, or sexual exploitation especially while children are present. Distributing pictures that could hurt minors without permission can have legal repercussions.

As a result, getting into trouble with the law is very easy in the hectic world of digital marketing nowadays. Therefore, it is recommended that consent be secured wherever possible while taking content, ensuring that the content you post is not disrespectful or misleading, and that it is not harmful.

Whether you're a parent posting pictures of your child's activities, an influencer capturing content in public spaces, or simply someone sharing moments with friends, understanding privacy laws is crucial.  If you have any doubt about whether or not your posting is in the clear, we suggest that you liaise with an attorney.