

POPI: What you need to know

WHAT IS POPI?

South Africa's Protection of Personal Information Act – it is intended to regulate the processing of personal information of an identifiable living natural person or juristic person (companies, cc's etc.). Also known as PPI Bill, PPI Act, Privacy Act, Personal Information Act, or Data Protection Act.

WHY IS POPI RELEVANT?

POPI defines the rules and practices that should be used to safeguard personal information. It requires that information is only collected for a specific purpose, is relevant and updated, is limited to what is needed only for as long as needed, allows the person to see the information on request, and that reasonable security measures are applied to reduce the risk of data breaches. An independent regulatory body will enforce these rules, rights and practices.

WHAT IS CONSIDERED PERSONAL INFORMATION?

It includes, but is not limited to: contact details (e.g. email, telephone, address); demographic information (e.g. age, sex, race, birth date, ethnicity); history (e.g. employment, financial, educational, criminal, medical); biometric information (e.g. blood type); opinions of and about the person; and private correspondence. This also includes details of employees of an organisation.

WHAT IS MEANT BY PROCESSING?

Processing is anything done with the personal information, including collecting, recording, usage, storage, disclosure or destruction, whether the processing is automated, e.g. online forms and call recording, or not, e.g. recorded on paper.

DOES POPI APPLY TO EVERYONE?

If a Responsible Party processes personal information, they must be POPI compliant, and they must handle personal data according to POPI's data protection principles. The Responsible Party is accountable for compliance. The Responsible Party is defined as a public or private body or any other person who, alone or in conjunction with others, determines the reason for and means of processing personal information. Normally the processing should occur in South Africa, or the Responsible party must be resident in South Africa. The exclusions include purely household or personal activity, de-identified information, certain state functions (e.g. criminal prosecutions, national security), journalism under a code of ethics and judiciary functions.

WHY IS POPI COMPLIANCE NECESSARY?

The Responsible Party (the information collector) risks a penalty of an up to R10 million fine and / or imprisonment of up to 12 months, and in some cases an up to R10 million fine and / or imprisonment of up to 10 years. A breach also carries the risk of civil class-action lawsuits, as well as reputational damage, as organisations are required to inform people if their data has been breached.

WHEN WILL POPI BE EFFECTIVE?

The Act was signed into law in November 2013, and certain sections came into effect on 11 April 2014. It is anticipated that the balance will come into effect mid-2015, by proclamation by the President in the Government Gazette. A compliance grace period of 1 year applies on commencement.

For information purposes only.

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