



The importance of POPI compliance

Over the last decade, exponential growth in the internet of things (IoT) have resulted in approximately 7 billion devices being connected and sharing information with one another. It is anticipated that by 2020, the number of connected IoT devices will reach 30 billion. IoT devices include amongst others, refrigerators, toasters, televisions, motor vehicles, smart phones and watches. With cyber crime on the rise and identity theft rife, the protection of personal information has become a priority in every organisation. A data breach can result in an organisation being penalised in the form of a fine and imprisonment, as well as suffer loss in the form of reputational damage. A number of data breaches have made headlines in the last few years, costing companies millions in fines and damages. These include Ashley Madison, Yahoo, Facebook, IRS and Red Cross Blood Service, to name but a few.

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Data protection laws have been in force for years in both Europe and the United States of America, whereas South Africa had to rely on the right to privacy entrenched in the Constitution and the few provisions in the Electronic Communications and Transactions Act 25 of 2002. Many individuals and organisations have been on the receiving end of spam or telemarketers, which may be why POPI is welcomed amongst a vast majority of people.

After much anticipation, the Protection of Personal Information Act 4 of 2013 (POPI), was introduced in South Africa. Although only a few sections took effect, the mere introduction of such legislation was a step in the right direction. POPI's main purpose is to give effect to the constitutional right to privacy, regulate the manner in which personal information may be processed, provide persons with rights and remedies



and establish voluntary and compulsory measures. In December 2016, the information regulator was appointed. This progress indicates that the remainder of the Act will also take effect soon. Once the remainder of POPI comes into effect, organisations only have one year to become compliant, which doesn't leave us with a lot of time to waste.

Unlike other areas of law that are perhaps only applicable to certain industries, organisations or persons, POPI is applicable to everyone. Every living person and every existing organisation has personal information and processes personal information of other persons. The manner in which personal information is processed, has become an important aspect to consider in terms of analysing and addressing risk in organisations. POPI provides for 8 conditions for lawful processing, which offer clear direction and requirements for the processing of personal information. Organisations have to abide by and comply with the conditions for lawful processing to avoid steep penalties.

When considering the security of personal information, a responsible party must secure the integrity and confidentiality of personal information in its possession or under its control. To accomplish this, a responsible party has to take appropriate, reasonable technical and organisational measures to prevent loss of, damage to or unauthorised destruction of personal information and unlawful access to or processing of personal information. POPI requires reasonable measures to be implemented to identify all reasonably foreseeable internal and external risks to personal information. Once these risks have been identified, appropriate safeguards have to be established and maintained against the risks identified. Non-compliance with POPI can result in administrative fines of up to R10 million as well as imprisonment. Compliance is therefore imperative, not optional.

Contact us for all POPI-related services, including risk assessments, training and policy drafting.



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