



LevorLegal

POPIA Starter Guide



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Purpose of POPIA

In keeping with international standards, the South African Protection of Personal Information Act No.4 of 2013 (“**POPIA**”) has recently come into full force and effect.

POPIA broadly regulates the processing of personal information of individuals and juristic entities, also referred to as **data subjects**.

The overarching goal of POPIA is to give effect to the basic human right of privacy in a digital era where data is commoditized.

Important Concepts

“**Personal Information**” means any information relating to an identifiable, living natural person (ie. any individual) or any juristic person (ie. any entity).

“**This information includes, but is not limited to:**

- 01 Contact information (such as telephone numbers and e-mail addresses);
- 02 Demographic information (such as race, ethnicity, age, birth date, sex);
- 03 Personal history (such as medical-, employment-, and/or financial history);
- 04 Biometric information (such as fingerprints, voice signature, blood type);
- 05 Opinions of- and about a person;
- 06 Private correspondence.



Important Concepts

“**Special Personal Information**” means information regarding the data subject’s religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life, biometric information or criminal behaviour.

“**Processing**” means, broadly, anything that is done with the personal information, including collection, usage, storage, dissemination, modification and destruction, regardless of whether or not the processing is automated.





Obligations

Key obligations under POPIA include:

- To only collect personal information for a specific purpose
- Applying reasonable security measures to protect personal information
- Ensuring that the information collected is relevant and up to date
- To keep personal information for a limited period – as long as is necessary based on the purpose it was collected
- Informing data subjects about the information you hold and allowing enquiries by data subjects about their information that you process.

These are however not the only obligations under POPIA. In summary, obligations include promoting transparency, accuracy, safety and reasonable use of information held.

Key Role Players in terms of the Act

The Act defines four key role-players in the data processing flow, each with their own rights and obligations.



These role-players are:

- **Information Officer**
- **Data Subjects**
- **Responsible Party**
- **Operator**

The flow chart following this slide depicts a summary of these role players and how personal information could be distributed.

Head of Organisation - Information Officer



FLOW OF PERSONAL INFORMATION



Does POPIA Apply to me or my Organisation?

POPIA applies to

- Any public or private body or any other person who determines the purpose of and way for processing personal information (responsible party).
- Any person who processes personal information for a responsible party.
- It includes company personal information .

There are very few businesses in South Africa that will not be impacted by POPI. It includes company personal information

Exclusions under POPIA:

- Purely household or personal activity
- Sufficiently de-identified information
- Journalism (under its Code of Ethics)
- Functions of Judiciary and Organs of State

Key Benefits of Complying with POPIA

Aside from complying with imposed legislative obligations, the following benefits may be derived from ensuring compliance with POPIA:



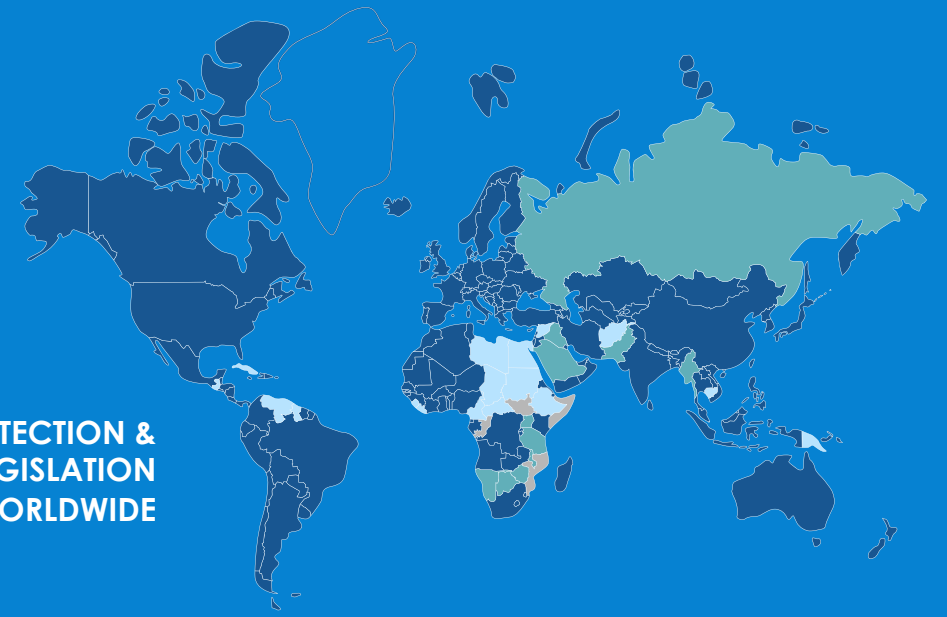
01 INCREASED CUSTOMER CONFIDENCE IN THE ORGANISATION

By promoting transparency, openness, accountability and responsibility, customer perception and trust in the organization and its activities is likely to be increased.

A business needs its clientele to sustain its growth. Repeat business can be encouraged by providing clients with comfort that their business partner is a responsible corporate citizen in all aspects.

Key Benefits of Complying with POPIA

DATA PROTECTION &
PRIVACY LEGISLATION
WORLDWIDE



02 PROMOTION OF INTERNATIONAL TRADE AND ECONOMIC PROSPERITY

The United Nations Conference on Trade and Accountability (“UNCTA”) aims to secure global economic development and inclusivity and collects various global statistics to inform and improve policy recommendations in this regard.

By collecting statistics and making recommendations, UNCTA aims to monitor global progress regarding data protection legislation and policy.

Indicated in figure 2, South Africa forms part of the listed jurisdictions that meet the specified criteria in line with first-world countries like the USA and across Europe.

By demonstrating its compliance with international requirements, South Africa has indicated its dedication to part-take in the global economy.

66% COUNTRIES WITH
Legislation

10% COUNTRIES WITH
Draft Legislation

19% COUNTRIES WITH
No Legislation

5% COUNTRIES WITH
No Data

Key Benefits of Complying with POPIA



03 OPERATIONAL IMPROVEMENTS

By working towards achieving POPIA compliance, information will be captured, its voracity ensured, and databases maintained. This exercise allows for streamlined and refined processes, thereby contributing to operational efficiency of the organization

Operational processes which are properly implemented help to identify internal risks or weaknesses, develop strategies to address them, and to mitigate those risks.

Key Benefits of Complying with POPIA



04 REDUCED RISK OF REPUTATIONAL DAMAGE AND/OR FINANCIAL PENALTIES

Reduced internal risks bring about the knock-on effect of reduced external risk. Naturally, any organization's main asset is the protection of their brand. By aiming to achieve regulatory compliance, an organization states unequivocally that it has a zero-tolerance stance towards reputational risk.

An organization may find itself to be in contravention of its legal obligations under POPIA. Sanctions in such instances could lead to fines, and up to 10 years imprisonment.

If data subjects believe that the Responsible Party is not meeting their compliance obligations, they have the right to complaint to the Information Regulator. The Information Regulator may assist the data subject with civil claims against the Responsible Party.

Compliance Measures



- Achieving POPIA compliance is not a one-size-fits-all, tick-box exercise.
- Due regard must be given to the organizational-specific processing, operational risks and the potential negative consequences that a breach presents for data subjects and business reputation.
- By focusing efforts towards ensuring the confidentiality and integrity of data, POPIA compliance offers a competitive edge by ensuring benefits for customers, investors and employees.
- We recommend fostering risk based organizational awareness, developing a risk matrix with mitigations strategies, drafting and implementing policies, and continuously monitoring data processing activities in your organisation.



Conclusion

- In an increasingly data driven world, the enactment of POPIA was necessary not only to remain internationally relevant and to meet global standardization, but to ensure that South Africa is pro-actively upholding its citizen's rights to privacy.
- POPIA should not be viewed through the lens of increased obligation, but rather seen as a tool toward compliance for a competitive advantage.



Thank You.

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