

The word 'POPI' was on everyone's lips when the Protection of Personal Information Act's one year grace period ended on 30 June 2021 and there was a rush for businesses to ensure compliance, but what exactly is the POPI Act everyone was talking about?

The POPI Act aims to control and regulate how businesses and other commercial entities gather, use, keep, and distribute data, particularly data pertaining to personal information. This includes any personal data processed, stored, or shared in accordance with any third-party agreement, including personal data belonging to staff and employees (HR data), personal data gathered from data subjects (client/member data), and personal information processed, saved, or shared (third party data or data-sharing). All companies must be able to demonstrate that their data collecting, and processing is legal, and that any associated practices, policies, or agreements comply with POPI's requirements.

What does the Act regard as personal information?

Any information that can be used to identify a data subject is considered personal information (person). Included in this are, but not restricted to: ID numbers, first and last names, email addresses and cell phone numbers.

What are the steps to ensure that a Company complies with the POPI Act?

- Raise awareness within your organization by ensuring that staff members are aware of the POPI Act's fundamentals and what is expected of them.
- Conduct an important self-evaluation of your company to comprehend how personal data of your clients (and employees) is gathered, used, kept, processed, and destroyed.
- Create and put into place the necessary policies and procedures to control the information flow.
- Ask a POPI specialist or professional to analyse and audit your company's policies and practices to see if they comply with the POPI Act.
- In order to establish awareness and knowledge, policies and procedures need to be adequately communicated through training that is offered throughout your organization.
- Plan or arrange regular audits and/or reviews of corporate changes to make sure you stay POPI compliant.

Steps employers can take to comply with the POPI Act

Consent

Making ensuring that their employees' consent is obtained and that the processing of their personal information is done for a specific purpose is the first step employers can take to protect themselves from liability under POPIA. Employees (as data subjects) must be able to "opt in" and understand how their personal data will be used. In addition to receiving consent, POPIA specifies that the processing of personal information is justified when it's required for the execution of a legal obligation,

safeguards the rights of the data subject, or serves the employer's legitimate business interests.

The eight requirements for the authorized processing of personal information are listed in Chapter 3 of the POPI Act. These are broadly as follows:

1. Accountability
2. Processing limitation
3. Purpose specification
4. Further processing limitation
5. Information quality
6. Openness
7. Security safeguards
8. Data subject participation

It is advisable for an employer to be familiar with these requirements. Otherwise, failure to comply may result in penalties under the POPI Act, which may include administrative fines of up to R10 million and/or imprisonment for up to 12 months.

An employer can also be required by law to process information in addition to the eight requirements listed in Chapter 3 of the POPI Act. The Occupational Health and Safety Act of 1993, the Basic Conditions of Employment Act of 1997, and the Employment Equity Act of 1998 are the three statutes that are most frequently cited in relation to employment.

As was previously said, giving employees the required consent voluntarily must be given top priority. Here are a few ideas that a company might take into account while creating appropriate consent guidelines:

- When consent is requested, appropriately worded consent documents must be signed. The precise reason for which the employee's personal information will be processed must be specified on these forms. a new system of working from home, for instance, where monitoring of employees will be necessary; or
- Employment contracts must specifically include the handling of personal information and require consent.