



Protection of Personal Information Act (POPIA) Coming into force on 1 July 2021

On 22 June 2020, President Ramaphosa announced that the substantive provisions of the Protection of Personal Information Act 4 of 2013 (POPIA) will come into force on 1 July 2021.

While the sections will commence on 1 July 2020, responsible parties – which includes both public and private sector entities – will have a one-year grace period to ensure compliance with the provisions. Notably, despite this grace period, responsible parties should be encouraged to begin the compliance process as soon as reasonably possible.

POPIA contains a number of important provisions that give effect to the rights to privacy and access to information. Notably, it sets out eight conditions for the lawful processing of personal information:

- **Condition 1: Accountability**, which requires that the responsible party must ensure the conditions for the lawful processing of personal information are complied with at the time of determining the purpose and means of the processing, and during the processing itself.
- **Condition 2: Processing limitation**, which requires that personal information must be processed lawfully and in a reasonable manner, and only if it is adequate, relevant and not excessive given the purpose for which it is processed.
- **Condition 3: Purpose specification**, which requires that personal information must be collected for a specific, explicitly defined and lawful purpose related to a function or activity of the responsible party, and should not be retained for longer than is necessary to achieve that purpose.
- **Condition 4: Further processing limitation**, which requires that the further processing of personal information should be compatible with the purpose for which it was collected.
- **Condition 5: Information quality**, which requires that the responsible party be required to take steps to ensure the personal information is complete, accurate, not misleading and updated where necessary.

- **Condition 6: Openness**, which requires that the responsible party take reasonably practicable steps to ensure the data subject is aware of, amongst other things, what personal information is being collected, the source of the information, the purpose for which it is being collected, and the name and address of the responsible party.
- **Condition 7: Security safeguards**, which requires that the responsible party must secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures, having regard to generally accepted information security practices and procedures.
- **Condition 8: Data subject participation**, which requires that data subjects be given the right to enquire whether personal information is held about the data subject and be provided with the record or a description of the information held. Data subjects may further request a responsible party to correct or delete personal information about them if it is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully.

POPIA also contains a number of other important provisions, including in respect of direct marketing, automated decision-making, cross-border data transfers and the processing of information relating to children.

Although POPIA was signed into law in 2013, there have been a number of delays in its full implementation. It is therefore a welcome development that there is now clarity on this issue. In the current data-driven era, the protection of personal information is a critical imperative, as members of the public increasingly seek to demand agency over their data. The IAB South Africa will continue to engage with and support members in efforts to comply with the provisions of POPIA.

Article written by Avani Singh, Director and Co-Founder of ALT Advisory

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