

The DMASA presents

**PROTECTION OF PERSONAL
INFORMATION ACT (POPIA), 2013**

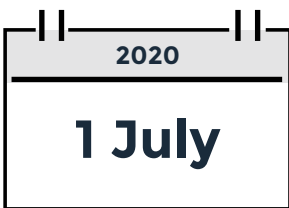
POPIA GUIDE

JULY 2020



POPIA IS HERE. NOW WHAT?

The Protection of Personal Information Act, 2013 (POPIA) will be enforced as of



The Protection of Personal Information Act, 2013 (Act 4 of 2013) (“POPIA”) has been with us for some time, in its current form, now. It is common cause that the provisions contained in POPIA place a number of onerous obligations on so-called “responsible parties” in relation to the processing of “personal information”.

For some time, a large portion of those who stood to be affected by the provisions of POPIA, have thought “That’s all good and well, I will cross that bridge when I get there”. Following the proclamation in Government Gazette No 43461 on the 22nd of June 2020, it appears as if those affected by the Act are now well and truly confronted with this proverbial “bridge”. This is not cause for panic though, as the DMASA and its legal advisory partners **Weavind Online** and **Weavind Inc.** are here to help you cross the bridge in an efficient manner.

Section 114 determines that Responsible Parties will have until 30 June 2021 to establish compliance.



THE PURPOSE OF THIS GUIDE

- **INFORM** you which provisions of POPIA are coming into effect on 1 July 2020
- **HELP** you understand the practical implications for your business
- **SIMPLIFY** the provisions of POPIA which are now in force
- **HELP** you identify the next steps in your road to compliance
- **SHOW** you exactly what you need in order to execute these steps

This POPIA Guide seeks to assist those affected by the provisions contained in the Gazette referred to above (which quite frankly, constitute almost everybody) as to the obligations which have been thrust upon them to get their houses in order for purposes of complying with the peremptory requirements for the lawful processing of personal information set out in POPIA.

POPIA essentially seeks to give effect to Section 14 of the Constitution, which entrenches everyone’s right to privacy. POPIA promotes the protection of personal information processed by public and private bodies and seeks to strike a balance between individuals and entities’ rights to privacy against reciprocal rights of access to information. POPIA was already promulgated into law during the course of April 2014. Following such date, the legislature has adopted a system of incremental implementation of the Act by way of the proclamation of certain sections into operation over a period of time.

STATUS: WHICH SECTIONS ARE IMPORTANT?

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Following the notice in the **Gazette**, the President has now proclaimed the following sections into law:

Sections 2 to 38, Sections 54 to 109, Section 111 and Section 114 (1), (2) and (3)

Effective Date: 1st of July 2020

Section 110 and 114 (4)

Effective Date: 30th June 2021

The importance of the promulgation of the above Sections into law is that they, amongst other things, impose the conditions and prerequisites for the lawful processing of personal information.

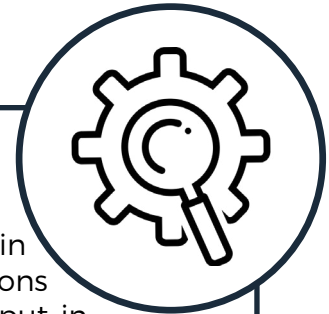
Of particular importance, are the provisions contained in Section 114 (1) of the Act which state that all forms of processing of personal information must, within one year after the commencement of the particular section, conform with the requisites set out in the Act. This effectively means that compliance with the Act will be compulsory from the 1st of July 2021.

STATUS: WHICH SECTIONS ARE IMPORTANT?

The 8 Conditions of Lawful Processing in Terms of POPIA

- 01 Accountability** - Section 8
- 02 Processing Limitation** - Sections 9 to 12
- 03 Purpose Specification** - Sections 13 to 14
- 04 Further Processing Limitation** - Section 15
- 05 Information Quality** - Section 16
- 06 Openness** - Sections 17 to 18
- 07 Security Safeguards** - Sections 19 to 22
- 08 Data Subject Participation** - Sections 23 to 25
- 09 Transborder Information Flows** - Sections 72

PRACTICAL: WHAT ARE THE IMPLICATIONS FOR MY BUSINESS?



01:

When one has regard to the onerous obligations which are set out in POPIA and the fact that responsible parties (in particular, organizations which process large amounts of personal information) will have to put in place systems and develop procedures so as to ensure that they prevent falling foul of the provisions of POPIA, a period of 12 months to get one's house in order is not as long as it may seem.

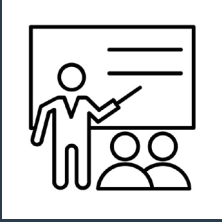
02:

POPIA creates a number of different criminal offences relating to failure to comply with items such as regulatory enforcement notices or the breach of a person's confidentiality. These offences attract penalties which may result in a fine or even imprisonment of a period of up to 10 years. In addition thereto, (and perhaps even more significantly) remedies are created for individuals whose personal rights to privacy are infringed. These include the right to claim compensatory damages for financial and non-financial loss.

03:

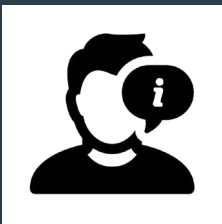
We would strongly suggest that you take careful cognizance of developments relating to the impending operation of POPIA, as well as measures which are to be put in place to ensure compliance therewith so as to ensure your business steers well clear of the pitfalls that non-compliance poses. Given the state of the economy and the financial turmoil suffered by businesses at large, the reputational and financial loss stood to be suffered in relation to non-compliance with the provisions of POPIA would be ill-afforded by businesses.

STEPS: WHAT STEPS MUST BE TAKEN TO ACHIEVE COMPLIANCE?



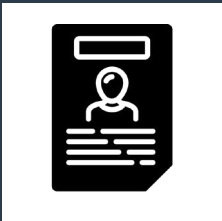
STEP 1: TRAINING

Through the DMASA's partnership with Weavind Online, we have deployed the DMASA E-Learning Platform. For single enrollments simply visit the site (<https://dmasalearning.org/>), alternatively, for a tailored quote and detailed registration steps, please contact Emma@weavindonline.com.



STEP 2: APPOINT AN INFORMATION OFFICER

The first step to compliance is the appointment of an "Information Officer" so as to enable the achievement of the outcomes set forth in terms of sections 55 and 56 of POPIA, as well as Regulation 4.



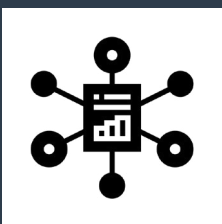
STEP 3: DEVELOP A PAIA MANUAL

As a Responsible Party, you are required to develop, publish and maintain a PAIA Manual in terms of Section 51 of the Promotion of Access to Information Act (PAIA).



STEP 4: DEVELOP A PRIVACY POLICY AND TERMS & CONDITIONS

Effective data protection compliance starts with procuring comprehensive consent and ensuring that your business has adequate terms and conditions and a privacy policy in place.



STEP 5: DEVELOP AND IMPLEMENT A COMPLIANCE FRAMEWORK

Once you have taken care of Steps 1-4, your compliance framework is required to hold everything together. The development and deployment of an adequate compliance framework is an ongoing process and starts with the execution of Steps 1-4.



FOR FURTHER ASSISTANCE AND GUIDANCE IN
RESPECT OF ANY OF THE ABOVE, PLEASE VISIT OUR
DEDICATED POPIA SITE

popi.weavindonline.com/

