



THE PROTECTION OF PERSONAL INFORMATION ACT (“POPI”)

“Many years ago our parents used to hide money under the mattress in an attempt to save it from unknown systems and people in the banks that might ensure the disappearance of this money. In the same vein this Bill must be seen as the mattress that will protect South Africans from unknown systems and people that want to disclose our personal information to strangers.”

This is how the COPE MP introduced the POPI Bill in Parliament in around 2012, and his introduction was greeted with unanimous applause.

WHAT’S THE PURPOSE OF THE ACT:

Its purpose is to protect personal information against unlawful collection, retention, dissemination and use,

and simultaneously . . .

. . . to facilitate the free flow of information and data within South Africa and between South Africa and other countries.

More than anything though . . .

POPI regulates the processing of private information.

WHAT IS PERSONAL INFORMATION?

just about much anything that can be used to identify an individual - your name, ID number, address, , medical history, criminal record, religious affiliation, sexual orientation, education, financial history, Twitter handle, Facebook address and even biometric data.

Believe it or not it also includes things like your personal opinions, private Emails and letters.

WHEN DOES 'POPI' TAKE EFFECT?

It was signed into law on the 27th of November last year and certain clauses came into effect in April this year, but the actual commencement date is still to be determined. It is expected that companies and organisations will have until about May or June 2016 to get their ducks in a row and put processes and procedures in place to comply with POPI.

WHAT DOES THIS MEAN?

All organisations, including your employer, will have to ensure that all information about an individual is secure from the moment it's been captured until it's been destroyed.

Furthermore, organisations can only capture, use and store your information with your express consent.

If a company already has a relationship with you it needs to make sure you know why they need your personal information and what it will be used for, and in addition you have to consent to them having it.

The fact that everyone who processes personal information still has more than a year (or two, we aren't sure) to make arrangements to comply, shouldn't make anyone wait to take the necessary steps to comply.

WHAT WILL HAPPEN IF A COMPANY OR ORGANISATION DOESN'T COMPLY WITH POPI?

Anyone who contravenes POPI'S provisions faces possible prison terms of up to 10 years and fines of up to R10-million.

POPI also allows individuals to institute civil claims so there's the possibility of further financial loss on top of any fine that may be imposed.

So no more dumping old office records in the bin or by the side of the road and hopefully in the future you won't be inundated by those unwanted and frustrating telephone calls by salesman asking if you want yet *another* cellphone contract!

Even those security guards who stop you at the entrance to a building and ask you to fill out a form with your name, ID number and contact details will have to explain why they need the information and what they're going to do with it.

IMPLEMENTATION?

The old saying goes that "the devil is in the detail" but as with most legislation in this case "*the devil is in the implementation*"!

This is state of the art legislation, which is on trend with European Union legislation.

The question still remains though: is it capable of implementation and enforcement in South Africa?

Only time will tell, but here can be no question though that this legislation is sorely needed.