

POPIA

A PLAIN LANGUAGE GUIDE

This guide will give you a brief introduction to the Protection of Personal Information Act (POPIA). The President enacted or signed POPIA into law in 2013. It sets the conditions that a person must follow to lawfully process personal information. POPIA aims to protect the personal information of people and businesses.

WHY IS POPIA IMPORTANT?

Everyone's personal information is very important and needs protection. If your job involves handling (or processing) someone's personal information and you fail to protect it, they could suffer serious harm. They could lose money, suffer physical, emotional or other types of harm. Think of it like this: What if you were in that person's shoes, and someone else had your personal information? Wouldn't you want them to do their best to protect it? That is why POPIA is important. By requiring those who hold others' personal information to keep it safe, POPIA helps prevent harm.

WHAT IS PERSONAL INFORMATION?

Information that identifies a living person:



Juristic persons such as companies, close corporations and trusts can also have personal information, so POPIA protects more than just living people.

WHAT IS SPECIAL PERSONAL INFORMATION?

Parliament created a subcategory called special personal information, which is different from normal personal information, because it is about especially sensitive information. This is the kind of information that someone can use to unfairly discriminate against a data subject (like the Apartheid government did in the past).



POPIA says that you cannot process special personal information unless you are authorised to do so. First, there is a general authorisation that applies to all the types of special personal information, and then there are further specific authorisations that relate to each type of special personal information. Consent is one of the authorisations, but there are others. For example, they do not need consent from person X, if they need that person's information in order to protect the rights of others.

WHO ARE THE ROLE PLAYERS?

DATA SUBJECT

The person that personal information relates to or identifies.

In your case, it will usually be the person whose personal information you deal with (POPIA calls it processing) as part of your job.

RESPONSIBLE PARTY

The party that decides to process personal information in a certain way

The company you work for could be a responsible party if it determines the purpose of (why) and means for (how) processing personal information.

This person does not determine the purpose and the means for processing.

OPERATOR

The person that processes personal information for somebody else.

WHAT DOES PROCESSING MEAN?

Processing personal information is not just about you opening a file, reading a document, or emailing information to someone.

It includes you saving documents on a USB,



transferring them from one computer to another,



or even deleting some, and editing others.



Basically, processing covers all the different ways you handle someone's personal information.

IS CONSENT NECESSARY TO PROCESS PERSONAL INFORMATION?

No. A data subject's consent is not necessary to process their personal information. POPIA allows responsible parties to have different reasons why they are processing the personal information.

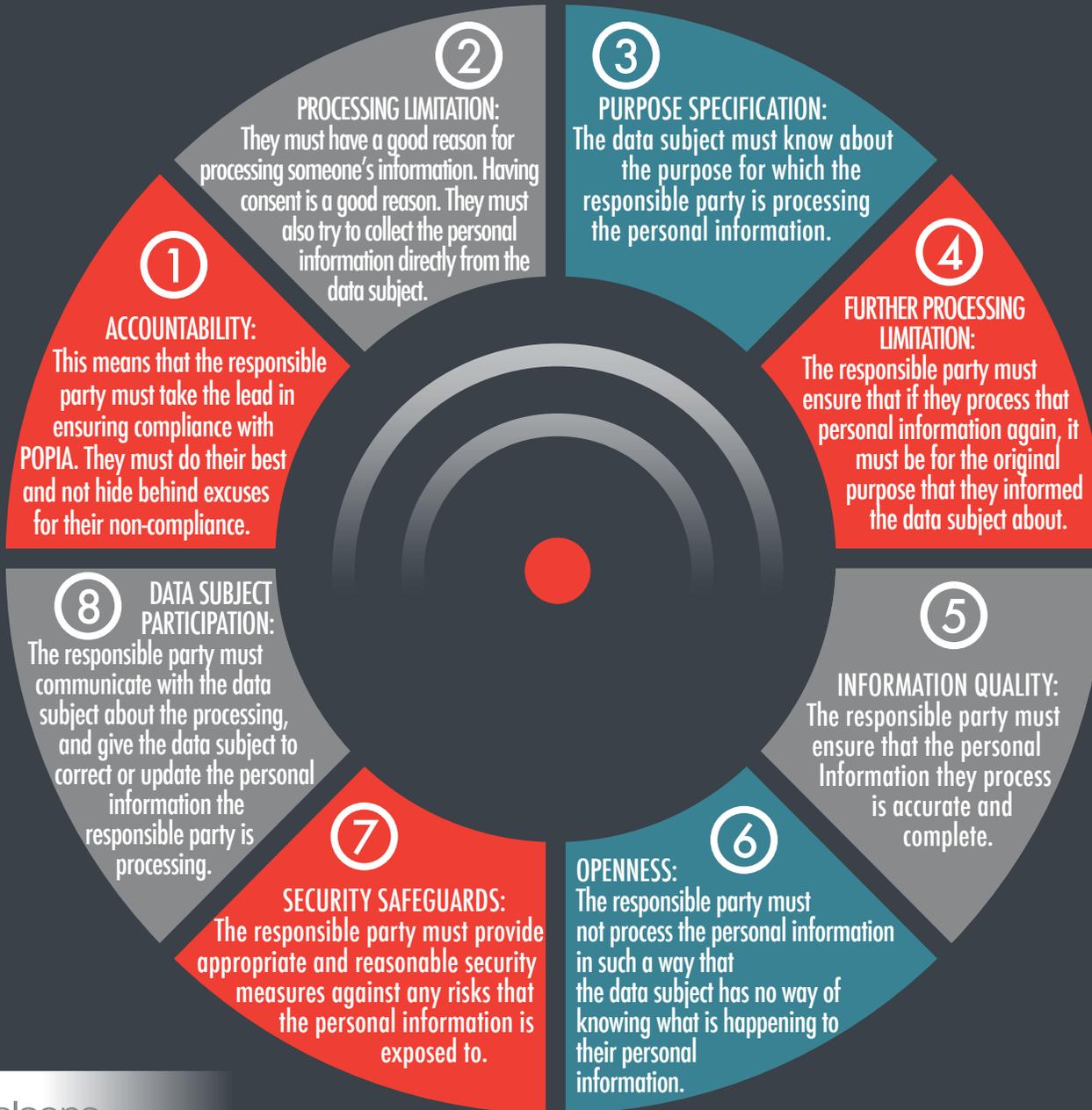
DOES POPIA ONLY APPLY TO ELECTRONIC INFORMATION?

No, POPIA applies to all personal information regardless of what form it is in. Personal information found in paper documents and electronic data such as audio and video recordings. POPIA can, in other words, even apply to Whatsapp voice notes and voicemail messages.



WHAT ARE THE 8 CONDITIONS FOR LAWFUL PROCESSING?

There are 8 conditions that responsible parties need to comply with for their processing to be lawful. A responsible party must, for example, ensure that there is a purpose or reason why they process the personal information. Another example of the conditions is that the information must be of a good quality, accurate and complete.



CAN YOU TRANSFER PERSONAL INFORMATION OUT OF SOUTH AFRICA?



Yes, but only if the responsible party has the consent of the data subject or one of the other reasons that POPIA mentions. POPIA does, for example, allow the transfer if the country the responsible party is transferring to has protections similar to those of POPIA.



HOW LONG CAN A RESPONSIBLE PARTY KEEP PERSONAL INFORMATION?

A responsible party may only keep personal information for as long as is necessary, unless they have a contract, for example, with the data subject that allows them to retain the personal information. They may also keep the personal information if there is a law that requires them to keep it. A responsible party must delete or destroy personal information when they no longer have a lawful reason for keeping it.