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POPIA Webinar Series – STEP 1

Presenter: **Lettie Janse van Vuuren** CA(SA), RA, CBA(SA)

6 August 2020

The Protection of Personal Information Act

The POPIA Compliance Checklist

Presenter

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Lettie Janse van Vuuren CA(SA), RA, CBA(SA)

- Lettie joined SA Accounting Academy in November 2017 as Head of Technical. She is a Chartered Accountant, Registered Auditor and Certified Business Accountant.
- She is a **professional trainer and webinar host**, and with her relaxed and humorous presentation style, she is able to hold the attention of an audience. She has a unique ability to communicate with delegates at their respective levels of knowledge and experience. Over the last 20 years, she has trained thousands of partners, managers, trainee accountants and other professionals.
- She is responsible for our MCLU (Monthly Compliance and Legislation Updates).
- She was the Professional Development Manager at SAICA for 4 years and in charge of accrediting new training offices and monitoring existing ones (including the moderation of training offices and trainee assessments).
- Lettie is passionate about improving the efficiency and standardisation at practices. She has extensive experience on a variety of technical and practical topics which she consults on, including: SAICA re-accreditation assistance and preparation, IRBA inspection assistance and preparation, audit file reviews (post-issuance monitoring and EQCR), Quality control implementation, other office-specific manuals, and FASSET skills development facilitation.

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WHAT'S ON THE AGENDA?

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Today's Quote

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"Data is the pollution of the information age, and protecting privacy is the environmental challenge."

- Bruce Schneier

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Module 1

Introduction & Recap on the Basics of POPIA

Introduction & Recap on the Basics of POPIA

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The following basics have been summarized in detail in your Webinar Material:

1. Introduction
    - POPI vs POPIA
2. What are the Objectives of the Act?
3. Who does the Act apply to?
    - Private body
    - Public body
    - Exclusions

Recap: Basics of POPIA *(continued)*

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4. The Role Players
    - Data subject
    - Responsible party
    - Operator
    - Information officer
    - Information Regulator
5. What does it mean to “Process” information?
6. Which Type of Information is protected?
    - What is included in “Personal information”?

Recap: Basics of POPIA *(continued)*

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7. Interaction with GDPR
8. Penalties and Fines
9. Other consequences of Non-Compliance with POPIA to consider
    - Impact on organisation
    - Impact on employee
    - Considerations for the auditors & accountants (NOCLAR)
10. The Information Regulator
11. Links to relevant Legislation

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GUEST PRESENTATION

MONTANA
DATA COMPANY

Enjoy today's detailed presentation

by **Karabo Letlhaku**

Guest Presenter

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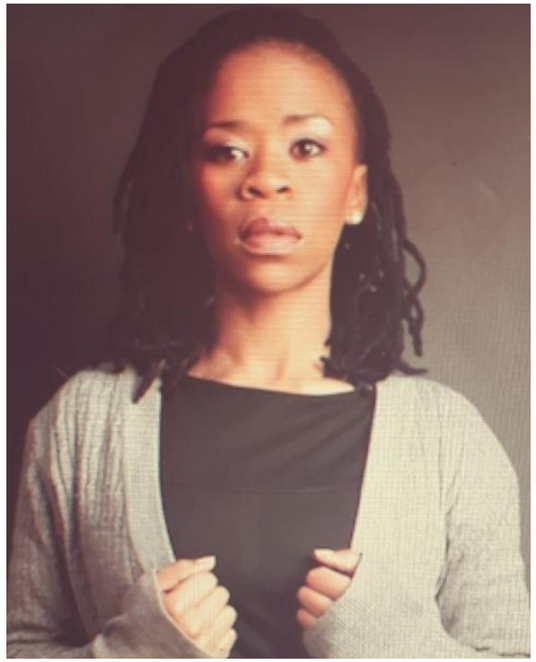
Karabo Letlhaku



- Karabo's interest in data protection was ignited in 2013 when the POPI Act was first introduced.
- As the lead in the Policies and Procedures management project at Eskom Pension and Provident Fund at the time, Karabo was in charge of ensuring that all policies and procedures of the Fund were updated and compliant with the various regulatory requirements affecting financial services and Pension funds.
- She joins Montana Data Company as an Account Executive specialising in assisting clients to find simplified yet effective ways of managing data and complying with data related regulation.
- She is currently a candidate in the Masters in ICT Policy & Regulation programme with Wits and holds a Communication Science and a Media Ethics degree from UNISA.

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MODULE 2

POPIA CHECKLIST – WHERE ARE WE NOW?

POPIA Checklist – Where are we now?

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Module 2

<u>The following items are dealt with here:</u>

1. The Big Picture – what is included in the webinar series?
2. Where are we now?
3. Let’s recap & emphasize some important aspects

POPIA Checklist – where are we now?

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The Big Picture – what is included in the webinar series?

- Dates and webinar topics
- *Refer to page 11 of webinar material*

Date	Webinar name *"Getting POPIA Compliant - Step xx…"*
6 August 2020	Step 1: Completing your Checklist during this Consultative phase
6 August 2020	Step 2: Appoint an Information Officer
3 September 2020	Step 3: Perform a gap analysis versus the POPIA
8 October 2020	Step 4: Analyse what and how Personal Information is processed (status quo)
5 November 2020	Step 5: Review / draft POPIA compliance policies based on findings
3 December 2020	Step 6: Review your websites & online platforms
14 January 2021	Step 7: Update / create your PAIA manual
4 February 2021	Step 8: Implement POPIA compliant PI management processes
4 March 2021	Step 9: Train internal stakeholders on their roles in POPIA compliance
8 April 2021	Step 10: Adopt POPIA compliance as “Business-As-Usual”
6 May 2021	Step 11: Information security Safeguards
3 June 2021	Final evaluation of your POPIA Compliance
24 June 2021	Last-minute tweaks – emergengy changes to finalise your project

Where are we now?

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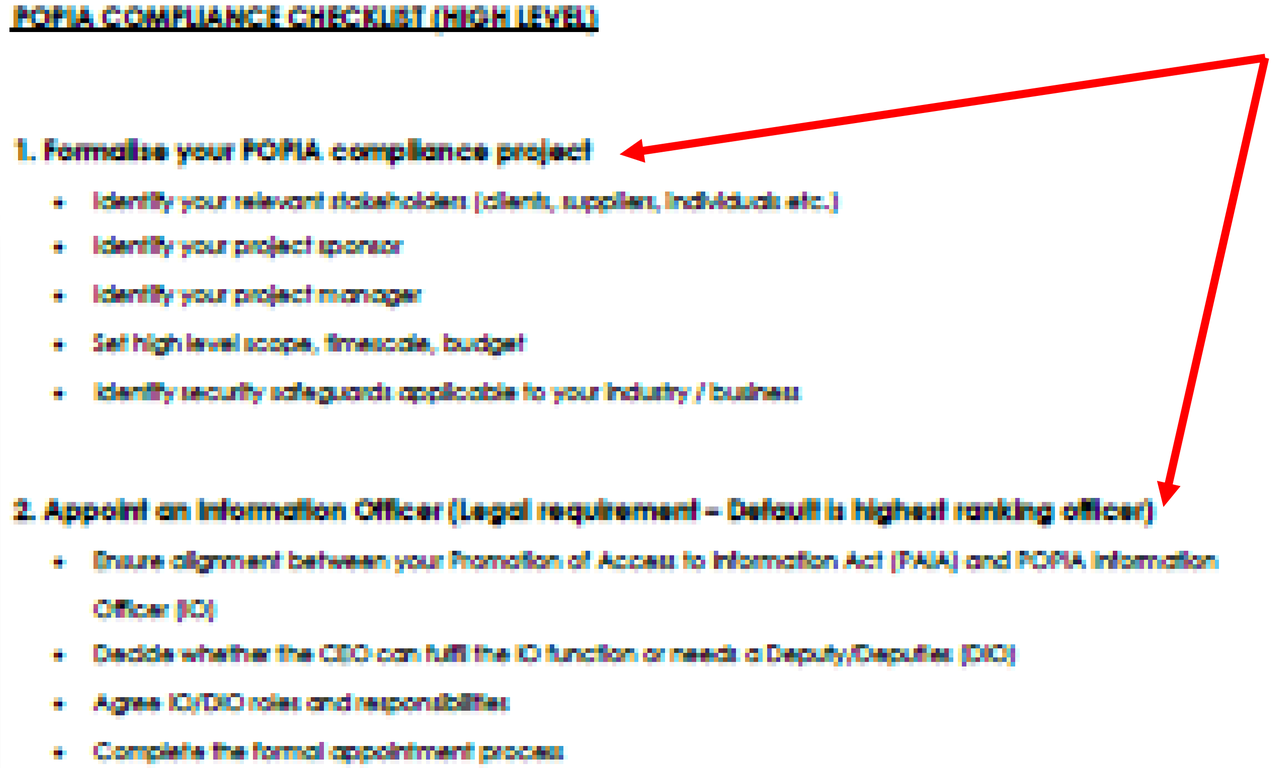
We are now in the Consultative phase and we are PLANNING!

- Today = **Steps 1 and 2 of the POPIA Checklist**
- *This POPIA Compliance Checklist (High Level) is once again available to you as a Source Document*

Xtreme Systems
Where customers are partners.



POPIA COMPLIANCE CHECKLIST (HIGH LEVEL)

1. Formalise your POPIA compliance project

- Identify your relevant stakeholders (clients, suppliers, individuals etc.)
- Identify your project sponsor
- Identify your project manager
- Set high level scope, timescale, budget
- Identify security safeguards applicable to your industry / business

2. Appoint an Information Officer (Legal requirement – Default is highest ranking officer)

- Ensure alignment between your Promotion of Access to Information Act (PAIA) and POPIA Information Officer (IO)
- Decide whether the CEO can fulfil the IO function or needs a Deputy/Deputies (DIO)
- Agree IO/DIO roles and responsibilities
- Complete the formal appointment process

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Let’s recap and emphasize some VERY IMPORTANT aspects…

Planning

Keep a copy of both POPIA & PAIA handy as these 2 work hand in hand.

Identify key players (Information officer, deputies, project officer in necessary).

Outline roles and responsibilities & make official appointments for roles (incl. KPIs). Ensure that these are in line with both POPIA & PAIA.

Break down the compliance planning over next 11 months using checklist, but keeping in mind that the ACT is applicable in retrospect – so what you do this year matters too.

Draft scope of work based on 8 conditions of compliance.

POPIA: Protection of Personal Information Act
PAIA: Promotion of Access to Information Act

Who are the Role Players?

Data Subject

Responsible Party

Operator

Regulator

Where do YOU fit in?

RESPONSIBLE PARTY (controller)

Public/ private body or any other person which, alone or in conjunction with others, determines the purpose of & means for processing personal information

Example: When you are uploading items to Google Drive, Dropbox, We Transfer, etc.

Also, as an employer that has staff under you

OPERATOR (processor)

Person who processes personal information for a responsible party in terms of a contract or mandate without coming under the direct authority of that party – usually a service provider

Example: If you (as an accountant) are performing actions on behalf of your clients, like uploading personal information (ID docs, tax returns) to SARS, etc.

”Processing” defined

“processing” means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

(a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;

(b) dissemination by means of transmission, distribution or making available in any other form; or

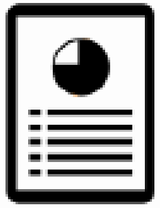
(c) merging, linking, as well as restriction, degradation, erasure or destruction of information;

Base for Scope of Work

The 8 POPIA Conditions of Compliance

1	2	3	4
			
Accountability	**Processing limitation**	**Purpose specification**	**Further processing limitation**
responsible parties must comply with these eight conditions.	personal information should only be obtained by limited and lawful processing that does not unnecessarily infringe privacy	the purpose for which personal information is collected must be specific, explicitly defined and lawful	further processing must be compatible with the purpose for which personal information is collected

The 8 POPIA Conditions (continued)

5	6	7	8
			
Information quality	**Openness**	**Security safeguards**	**Data subject participation**
reasonably practicable steps to ensure personal information is complete, accurate, not misleading and updated	advise the data subject of certain mandatory information in respect of collection	the integrity and confidentiality of the personal information must be secured	the data subject has certain access rights, including a right to request its deletion

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Module 3

Step 1 – Formalise your POPIA Compliance project

Step 1 – Formalise your POPIA Compliance project

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The following items are dealt with here:

1. **Checklist Step 1 – breakdown**
   - *Refer to the Webinar Material for more detail*

2. **Bonus Document: Detailed Checklist – Step 1**
   - *Available to you as a Bonus Document*

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Module 4

Step 2 – Appoint an Information Officer

Step 2 – Appoint an Information Officer

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<u>The following items are dealt with here:</u>

1. Let's discuss:
   - The Information Officer
   - POPIA Operator Responsibilities
   - Information Officer Responsibilities – POPIA
   - Information Officer Responsibilities – PAIA
2. **Checklist Step 2 - breakdown**
   - ➢ *Refer to the Webinar Material for more detail*
3. **Bonus Document: Detailed Checklist – Step 2**
   - ➢ *Available to you as a Bonus Document*

Keep in mind when appointing key players, especially the Information Officer

POPIA Operator Responsibilities

Information processed by operator or person acting under authority

20. An operator or anyone processing personal information on behalf of a responsible party or an operator, must—

(a) process such information only with the knowledge or authorisation of the responsible party; and

(b) treat personal information which comes to their knowledge as confidential and must not disclose it,

unless required by law or in the course of the proper performance of their duties.

Security measures regarding information processed by operator

21. (1) A responsible party must, in terms of a written contract between the responsible party and the operator, ensure that the operator which processes personal information for the responsible party establishes and maintains the security measures referred to in section 19.

(2) The operator must notify the responsible party immediately where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person.

Information Officer Responsibilities - POPIA

55. (1) An information officer's responsibilities include—

(a) the encouragement of compliance, by the body, with the conditions for the lawful processing of personal information;

(b) dealing with requests made to the body pursuant to this Act;

(c) working with the Regulator in relation to investigations conducted pursuant to Chapter 6 in relation to the body;

(d) otherwise ensuring compliance by the body with the provisions of this Act; and

(e) as may be prescribed.

(2) Officers must take up their duties in terms of this Act only after the responsible party has registered them with the Regulator.

Designation and delegation of deputy information officers

56. Each public and private body must make provision, in the manner prescribed in section 17 of the Promotion of Access to Information Act, with the necessary changes, for the designation of—

(a) such a number of persons, if any, as deputy information officers as is necessary to perform the duties and responsibilities as set out in section 55(1) of this Act; and

(b) any power or duty conferred or imposed on an information officer by this Act to a deputy information officer of that public or private body.

Information Officer Responsibilities - PAIA

- a manual is developed, monitored, maintained and made available as prescribed in sections 14 and 51 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

- Per section 14(c) and 51(c) (PAIA as amended by POPIA) a **manual for the purpose of the Promotion of Access to Information Act** and the Act is developed detailing—
    1. the **purpose of the processing**;
    2. a **description of the categories of data subjects** and of the information or categories of information relating thereto;
    3. the **recipients or categories of recipients** to whom the personal information may be supplied
    4. the **planned trans-border or cross border flows** of personal information; and
    5. a general description allowing preliminary assessment of the suitability of information security measures to be implemented and monitored by the responsible party
- the manual is available—
    1. **on the website**, of the responsible party; and
    2. **at the office or offices** of the responsible party for public inspection during normal business hours of that responsible party.

Information Officer Responsibilities - PAIA

According to Section 77(K) of PAIA (as amended by POPIA):
'An information officer of a public body or head of a private body who refuses to comply with an enforcement notice referred to in section 77J, is guilty of an offence and liable upon conviction to fine or to imprisonment for a period not exceeding three years or to both such a fine and such imprisonment.

It is essential that proper contract with powers, recourse and responsibility be put in place between the Information Officer and the Responsible Party.

Module 5

Various “prickly” issues

Various “prickly” issues

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<u>The following items are dealt with here:</u>

1. The Google & Gmail issue
2. Issues around non-localised processing of data
3. Feedback from previous Q&As
   - *This document is available to you as a Source Document*

freshspectrum.com

Your resume looks good,
but after our Google search
we're not totally sure
you actually exist.

The Google & Gmail issue

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- Google have issued a document stating that they are compliant from their side.
- Refer to the ***Google Cloud data processing amendment to G Suite v2.2 Aug 2020*** document for more detail in this regard.
- Visit: **https://cloud.google.com/security/compliance/south-africa-popi**

  ➢ *This Google Cloud document is available to you as a Source Document*

Issues around non-localised processing of data

Does the GDPR apply to your organisation?

- **YES, if it offers goods and services to individuals in the EU?**

- **YES, if it monitors the behaviour of individuals in the EU?**

Localised OR Not localised?

POPIA applies:

- responsible party / data controller that is domiciled in South Africa and that makes use of automated or non-automated means to process the personal information. OR;
- responsible party is not domiciled in South Africa but makes use of automated or non-automated means in South Africa unless those means are used only to forward personal information through South Africa.

➢ ***NB See page 5 and 6 of DLA Piper Data protection report – available to you as a Source Document***

STANDARD	POPIA	GDPR
Application	▪ Personal information processed in South Africa	▪ Personal data of all EU data subjects, regardless of jurisdiction
Persons	▪ Juristic and natural	▪ Natural
Roles	▪ Responsible party and operator	▪ Data controller and processor AND ▪ Joint responsible parties, third parties and recipients
Penalties	▪ 10 years imprisonment or R10 million	▪ EUR 20 million or 4% of worldwide turnover
Official	▪ Information Officer to be appointed for all companies and registered with Regulator	▪ Data Protection Officer in terms of [Article 37] for certain organizations
Breach notifications	▪ "as soon as reasonably possible"	▪ Duty to report breaches to supervisory authorities within 72 hours of the breach
Privacy by design	▪ Not addressed	▪ Mandated by [Article 25]
Data protection impact assessments	▪ Not addressed in POPIA, but obligation imposed on information officer in the regulations	▪ Obligation to conduct data protection impact assessments [Article 35] where processing is likely to result in high risks for the rights and freedoms of data subjects and maintaining evidence or documentation of such assessments. ▪ Such assessments involve, inter alia identifying risks and measures to mitigate such risks and include prior consultation with the supervisory authorities.
Data portability	▪ Data subject access request - a record or description of personal information must be given "in a reasonable manner and format and in a form that is generally understandable".	▪ The right for a data subject to receive his or her data in a "structured, commonly used, machine-readable and interoperable format and the right to transmit those data to another controller". [Article 20] Data subjects can order that their data is transferred to another controller or service provider

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Previous FAQs

This FAQ Summary is available to you as a Source Document

Access to our POPIA Expert

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Module 6

What's Next??

What's Next???

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<u>The following items are dealt with here:</u>

1. You need to **complete your Detailed Checklists for Step 1 and Step 2**
   - ➢ *These are available to you as **Bonus Documents***
2. Date for the next instalment of the POPIA Compliance Series
   - **Thursday, 3 September 2020**
   - **Step 3 - Perform a gap analysis versus the POPIA**
3. *Watch your e-mail inbox to book in advance for the rest of the webinar series and receive a discount!*

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QUESTIONS?

Formal Q&A Session

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We will now take a **quick comfort break** before we discuss some questions received during the webinar.

Remember: A Q&A summary will also be uploaded to your profile

If you would like to e-mail a question please use:

technicalquestions@accountingacademy.co.za

E-mail general comments to info@accountingacademy.co.za

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Thank you for your participation!

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