

POPIA/PAIA: Did you know?

Written by Karus Prinsloo, Co-founder and Managing Director of NBP Attorneys Inc.

POPIA and PAIA are mandatory South African laws that protect privacy and ensure access to information, with penalties of up to R10 million and possible criminal sanctions for non-compliance. Key compliance requirements include registering an Information Officer, maintaining an up-to-date PAIA manual, submitting annual reports, and notifying the Information Regulator of any security breaches. NBP Attorneys can guide organisations through these obligations, helping ensure full compliance and safeguarding both legal and ethical responsibilities.

Mandatory Compliance: Understanding PAIA And POPIA

The Promotion of Access to Information Act (PAIA) and the Protection of Personal Information Act (POPIA) have been in force for quite some time (more than 20 years and over four years, respectively). Both these pieces of legislation, which address the constitutional rights to access information and to privacy/protection of personal information, are enforced by the Information Regulator (IR). Compliance with PAIA and POPIA is mandatory. These laws prescribe penalties of up to R10 million under POPIA and, in some cases, even criminal sanctions, including imprisonment, for non-compliance. It's not just a legal obligation – compliance is the right thing to do!

Information Officer Registration

Every organization is required to have an Information Officer registered with the IR. Over the past year, the IR's registration portal has been updated, so it's essential to ensure your registration is current and correctly recorded. You can access the registration portal [here](#).

PAIA Manual Requirement

The legislation mandates that each organisation must have a PAIA manual. When POPIA came into effect, it introduced additional requirements for these manuals. While certain organisations were previously exempt, these exemptions no longer apply – now all organisations must have a PAIA manual. We frequently notice that many organisations' PAIA manuals still reference the Human Rights Commission, which was previously responsible for enforcing PAIA before the IR was established. The IR has provided templates for PAIA manuals (Private Body Template and Public Body Template) that organisations can use. Many PAIA manuals created before POPIA came into force are now outdated and do not meet current legislative requirements.

Annual Reporting

Each year, between May and July, organizations must report to the IR, including details on the number of access requests and complaints they have received under POPIA and PAIA. These reports are submitted electronically via the IR's portal.

Notification Of Security Compromises

In the event of a privacy breach, organizations are required to follow specific steps, which include notifying the IR using the appropriate form (FORM-SCNI-Security Compromises Notification), as well as informing the affected data subjects. The points above are not exhaustive but highlight some of the key requirements imposed by POPIA and PAIA, especially towards the IR. This article is part of a series designed to assist organisations in complying with these legislative requirements. Watch this space for more POPIA and PAIA related requirements in future!

Please note that the content of this article is for informational purposes only and does not constitute legal advice. For assistance with POPIA/PAIA compliance or to support your Information Officer, contact us at karus@nbplaw.co.za or 082 375 7251 to assist you on your POPIA/PAIA privacy journey.

