



DLA CLIFFE DEKKER
HOFMEYR

DATA PROTECTION AND PRIVACY ALERT

27 November 2013

PROMULGATION OF PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013

The Protection of Personal Information Act, No 4 of 2013 (Act) was promulgated into law on 26 November 2013. The Act's promulgation marks a significant move by the Legislature to provide for legislative requirements and mechanisms for data protection and privacy in South Africa.

The Act is wide in application and will, subject to the exclusions detailed therein, impact all persons processing personal information. Both processing and personal information are widely defined under the Act to include the collection, receipt, recordal, collation and storage of information relating to an identifiable, living, natural person and (where applicable) an identifiable, existing juristic person, including information such as race, gender, sex, education, financial and employment history, personal opinions, biometric information, identifying number, e-mail and /or physical address, telephone number and correspondence sent by the person that is implicitly or explicitly of a private or confidential nature.

The Act will commence on a date to be determined by the President by proclamation in the Gazette. Different dates of commencement may be determined in respect of different provisions of the Act. The Act allows for a one year transition period from its

commencement for all persons to comply with the requirements of the Act. The obligations imposed under the Act are extensive and non-compliance may amount to severe penalties, including fines of up to R10 million or 10 years imprisonment and may also expose organisations to civil damages claims by data subjects.

Compliance measures will take time and effort to implement and it is therefore essential for all persons, including private and public entities, to create awareness of the Act within their organisation and ensure that they take proactive measures so as to comply with their obligations under the Act.

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