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# TECHNOLOGY, MEDIA & TELECOMMUNICATIONS ALERT

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### At long last? Information Regulator asks President Ramaphosa to bring POPIA into effect

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CLIFFE DEKKER HOFMEYR

## At long last? Information Regulator asks President Ramaphosa to bring POPIA into effect

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**The South African Information Regulator has written to President Cyril Ramaphosa, requesting him to declare the commencement of the remaining provisions of POPIA by proclamation in the Government Gazette.**

According to the Information Regulator, the President has been requested to proclaim the commencement of the remaining sections of the Protection of Personal Information Act 4 of 2013 (POPIA) to be effective as from 1 April 2020 – which is the beginning of the Information Regulator's financial year. This development comes after a very lengthy process to bring this law into being – a process which began in the year 2000 when the South African Law Reform Commission approved an investigation entitled "Privacy and Data protection" – an investigation which ultimately resulted in POPIA being signed into law in 2013.

Although the President assented to POPIA in 2013, the majority of the sections of the Act, which sections notably include the operative provisions which impose obligations on responsible parties, are not yet in force. Until such time, the personal information of data subjects remains vulnerable to exploitation without sufficient legal recourse being in place

in South Africa, as the following sections of POPIA are the only sections which are currently in effect:

- the definitions section (section 1);
- the sections pertaining to the establishment, powers, duties and functions of the Information Regulator (sections 39 – 54); and
- the sections pertaining to the procedure for making regulations (sections 112 and 113).

It is important to point out that even if the President complies with the Information Regulator's request and declares the commencement of the remaining provisions of POPIA by proclamation in the *Government Gazette*, section 114 of POPIA makes provision for a one-year transition period (which will follow the commencement of section 114 and which may be extended by the Minister in respect of certain classes of information and bodies) in terms of which responsible parties will not be held liable for contraventions of the Act.

Therefore, should the President accede to the Information Regulator's request, businesses have until the end of March 2021 to become compliant with the provisions of POPIA or may face being held liable for contraventions of the Act.

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*Preeta Bhagattjee and Liam Sebanz*

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