Inside Privacy Audiocast

View from Johannesburg Part I: GDPR vs. POPIA - What should businesses be considering?

Key Takeaways

1. South Africa’s data privacy law, the Protection of Personal Information Act (POPIA), took effect as of 1 July 2020 and is followed by a one-year compliance grace period.

In order for transfer of personal information to be permissible under POPIA, the data controller will have to show one or more of the following conditions:

- the recipient of the personal information is subject to a law, binding corporate rules or binding agreement which provides an adequate level of protection that effectively upholds principles for reasonable processing of information that are similar to the conditions for lawful processing under POPIA (including, where applicable, in respect of data subjects that are legal persons);
- the data subject consents to the transfer;
- the transfer is necessary for the performance of a contract between the data subject and the responsible party;
- the transfer is necessary for the conclusion or performance of a contract between the data controller and a third party that is in the interest of the data subject; or
- finally, that the transfer is for the benefit of the data subject, subject to conditions.

2. While POPIA is substantially similar to the GDPR, it is not identical. Notably, the GDPR includes certain key protections that are not contained in POPIA, which include:

- Data portability
- Privacy by design

3. Organizations should start their road to POPIA compliance by undertaking the following simple measures:

- Conduct a privacy impact assessment
- Drive awareness within your organization
- Implement a privacy compliance framework
- Appoint an information officer
- Monitor your compliance framework

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