

BREACH NOTIFICATION

Are there any data breach notification requirements?

A data breach is a security incident in which sensitive, protected or confidential data is copied, transmitted, viewed, stolen or used by an individual unauthorized to do so. Local data protection regulations have required data controllers to report such breaches in certain circumstances.

In cases where there's reason to believe that an employee's (or other data subject's) personal information has



been accessed or acquired by someone without authorization, employers must notify South Africa's Information Regulator (The Protection of Personal Information Act, 2013, Sec. 22(1))(POPIA). Impacted individuals must also be informed as soon as reasonably possible unless the identity of the individual whose information has been compromised can't be established.

Notification to impacted individuals may be legitimately delayed if required by law enforcement,

a public body, or the Information Regulator conducting a criminal investigation. Employees whose personal data has been compromised must be notified by writing through:

- mail or email to the data subject's last known address;
- posting a notification in a prominent position on the employer's website;
- publishing in the news media; and/or
- as directed by the Information Regulator.

The notice must include information to allow the individual to take measures to protect themselves against the risks associated with the breach, including:

- a description of the possible consequences to the individual;
- a description of the measures the employer intends to take or has taken to address the security compromise;
- recommendations of steps the individual can take to mitigate the potential effects of the security compromise; and,
- the identity of the unauthorized person who may have accessed or acquired their personal information (when possible).

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