

FINES AND PENALTIES

What are the penalties for noncompliance with any applicable data protection laws?

Noncompliance with data privacy laws and data breaches may lead to sanctions, fines, and penalties. The amounts are usually calculated according to the risk to which personal rights were exposed and the preventive measures taken by the data controllers, processors and sub-processors in relation to their respective role in the chain of personal data processing.

Penalties, including fines (of up to ZAR 10 million) and imprisonment of up to 10 years can be imposed for offences related to South Africa's Protection of Personal Information Act, 2013 (Sec. 107)(POPIA). Fines are determined based on a number of factors including:

- the nature of personal information involved;
- the duration and extent of any contravention;
- the number of individuals who may be impacted;

- whether the offence is an issue of public importance;
- the likelihood of substantial damage/distress, including anxiety and injured feelings;
- whether the employer could have prevented the contravention;
- the failure to conduct risk assessments and follow good practices/policies/procedures relating to protecting personal information; and,
- whether it's a repeat offence (POPIA, Sec. 109(3)).



HR Best Practices: Before processing personal data, make sure to be in line the security measures necessary to ensure data security within your organization. Furthermore, ensure all data processors have data breach response plans in place.

Last updated June 2021.

DISCLAIMER: The information contained in this document is for general information purposes only and is not intended to be a source for legal, tax, or any other professional advice and should not be relied upon as such. This information is not intended to create, and the receipt of it by the reader does not constitute, an attorney-client relationship. All legal or tax questions or concerns should be directed to your legal counsel or tax consultant. Laws and regulations may change and UKG Inc. ("UKG") cannot guarantee that all the information in this document is accurate, current or complete. UKG MAKES NO REPRESENTATION OR WARRANTIES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE DOCUMENT OR THE INFORMATION OR CONTENT CONTAINED HEREIN AND SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY, OR COMPLETENESS OF THIS INFORMATION. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, NEITHER UKG, NOR ITS AGENTS, OFFICERS, EMPLOYEES, SUBSIDIARIES, OR AFFILIATES, ARE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR PROFITS, OR BUSINESS INTERRUPTION), EVEN IF THE UKG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT, ARISING IN ANY WAY OUT OF THE USE OF OR INABILITY TO USE THIS INFORMATION. This document and the content are proprietary and confidential information of UKG. No part of this document or its content may be reproduced in any form, or by any means, or distributed to any third party without the prior written consent of UKG © 2021 UKG Inc. All rights reserved.