

CONTRACTS/ PRIVACY STATEMENTS FROM CLIENTS, THIRD PARTIES OR SERVICE PROVIDERS

The POPI act does not require that you send out a declaration to your clients stating that you comply with the Act. You can do this at your discretion and prerogative.

However, the Act requires you to have specific and appropriate consent and agreements with third parties/ operating parties. We are in the process of drafting this in accordance with the POPI Act and the new Regulations.

The POPI act imposes a few requirements relating to your documentation that are noteworthy.

1. The first being **consent** that should be obtained from your Data Subjects (people/companies whose personal information you process) to process such information.

This consent should be specific about the reason for collection and how it will be processed and protected.

It should also be noted that Data Subjects can be your clients, employees, or the clients of another party on whose behalf you process personal information (making you an operating party/ third party). In all these circumstances appropriate consent should be obtained.

2. Another being that **proper agreements** should be in place between a Responsible Party (the party to the agreements that decides how personal information should be collected, processed, and stored) and their Third Parties/ Operating Parties (those that process your client or employee's personal information on your behalf). This agreement should ensure that the third party/operating party would protect the personal information in accordance with the POPI Act and that they would not process it unlawfully or use it for any other unintended purposes.

The third-party/ operating party should indicate if they can agree to the terms put in place by the Responsible Party.

When receiving any agreement/ documentation in this regard:

First, you will have to determine if this company **only has your company's** information. If yes:

- The document probably just declares that they are complying with the POPI Act and that they would protect your Personal Information as you are their Data Subject.
- This will typically be service providers with no access to Personal Information about your clients/ employees.
- Most likely they need your consent to carry on processing your information for service delivery purposes.
- Only you as the data subject can determine if you are willing to give your consent. No one else can do this on your behalf.

If the company has **your company's information along with the Personal Information of your clients/employees:**

- They are your third party/ operating party which means how they process the personal information (on your behalf) is very important.
- They should have a clear understanding of what the POPI Act requires to keep the personal information secure under their care.
- You should ensure that you have consent from your clients/ employees (data subjects) to make use of this third party that would process their personal information.
- Again, only you as the responsible party can determine if you can sign such a document with the safety measures put in place. No one else can do this on your behalf.

Should you require these agreements or consent please indicate this to provide you with such a template once they are done.