

**Home Owners Association
2003/009741/08**

**Promotion of Access to and Protection of
Information Manual**

**Manual in terms of
The Promotion of Access to Information Act (PAIA) and
The Protection of Personal Information Act (POPIA)
("PAPI Manual")**



This Promotion of Access to and Protection of Information ("PAPI") Manual (and all updated manuals) of the Plantations Home Owners Association must be –

- Provided to the SA Human Rights Commission and the Community Schemes Ombud Service;
- Published in the Gazette;
- Available at the premises of the Home Owners Association;
- Published on the website (if any) of the Home Owners Association;
- Accessible to the Information Regulator, the directors and employees of the Home Owners Association;
- Available to any person on request and payment of the prescribed fee; and
- Reviewed regularly and updated as necessary.

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SIGNATURE OF CHAIRPERSON / INFORMATION OFFICER

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1. DEFINITIONS

PAIA means the Promotion of Access to Information Act 2 of 2000

POPI means the Protection of Personal Information Act 4 of 2013

Information Regulator means the Regulator established in terms of Section 39 of POPIA

Person means a natural person or a juristic person

Private body means:

- a natural person who carries or has carried on any trade, business or profession, but only in such capacity
- a partnership which carries or has carried on any trade, business or profession; or
- any former or existing juristic person, but excludes a public body

Public body means:

- any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
- any other functionary or institution when:
 - exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
 - exercising a public power or performing a public function in terms of any legislation

Head, in relation to, a private body means:

- in the case of a natural person, that natural person or any person duly authorised by that natural person;
- in the case of a partnership, any partner of the partnership or any person duly authorised by the partnership;
- in the case of a juristic person:
 - the chief executive officer or equivalent officer of the juristic person or any person duly authorised by that officer; or
 - the person who is acting as such or any person duly authorised by such acting person

Information Officer means the head of a private body

Deputy Information Officer means the person to whom any power or duty conferred or imposed on an Information Officer by POPI has been delegated

Requester in relation to a private body, means any person, including, but not limited to public body or an official thereof, making a request for access to a record of the organisation or a person acting on behalf of such person

Personal Requester means a requester seeking access to a record containing personal information about the requester

Personal Information means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:

- information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;

- information relating to the education or the medical, financial, criminal or employment history of the person;
- any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- the biometric information of the person;
- the personal opinions, views or preferences of the person;
- correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- the views or opinions of another individual about the person; and
- the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person

Request for access means a request for access to a record of the organisation in terms of section 50 of PAIA

Record means any recorded information regardless of the form or medium, in the possession or under the control of the organisation irrespective of whether or not it was created by the organisation

Data Subject means the person to whom personal information relates

Third Party in relation to a request for access to a record held by the organisation, means any person other than the requester

Processing means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use, dissemination by means of transmission, distribution or making available in any other form, or merging, linking, as well as restriction, degradation, erasure or destruction of information

2. INTRODUCTION

2.1 In recognition of our Constitutional rights to access to information and privacy, the State has enacted legislation.

2.2 The Promotion of Access to Information Act, No. 2 of 2000, ("PAIA") came into operation on 9 March 2001. Section 51 of PAIA requires that we compile a manual setting out the procedure to be followed should information, that is required for the purpose of exercising or protecting rights, be requested from us.

2.3 The Protection of Personal Information Act, No.4 of 2013 ("POPIA") came into operation on 1 July 2021. The purpose of POPIA is to promote the protection of personal information processed by public and private bodies through regulation.

2.4 As a defined private body, we are required to comply with this legislation.

3. PURPOSE OF THE PAPI MANUAL

3.1 PAIA grants a requester access to records of a private body, if the record is required for the exercise or protection of any rights. POPIA requires that personal information is processed in a defined manner.

3.2 Requests for access to information in terms of PAIA are to be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of PAIA, and are set out below.

3.3 This PAPI Manual sets out the procedure to be followed by us where information is requested in terms of PAIA.

3.4 This PAPI Manual complies with the requirements of the guide mentioned in Section 10 of PAIA, as set out further below.

4. PLANTATIONS HOME OWNERS ASSOCIATION

4.1 Plantations Home Owners Association ("the Home Owners Association" or "HOA") is an established Home Owners Association and is responsible for the enforcement of the rules, control, administration and management of the common property for the benefit of all the owners.

4.2 The functions and powers of the Home Owners Association are performed by the directors of the Home Owners Association.

5. CONTACT DETAILS OF THE HOME OWNERS ASSOCIATION

5.1 The Home Owners Association's details are as follows:

Home Owners Association	
Full Name of Complex	PLANTATIONS ESTATE
Type of Complex	Home Owners Association
Registration Number	2003/009741/08
Physical Address	47 Shongweni Road, Hillcrest, 3610, KZN
Domicilium Address	47 Shongweni Road, Hillcrest, 3610, KZN
Postal Address	47 Shongweni Road, Hillcrest, 3610, KZN
Telephone Number	031 765 8968
Email Address	estatemanager@plantationsestate.co.za
Website	www.plantationsestate.co.za

6. CONTACT DETAILS OF THE INFORMATION OFFICER

6.1 The Information Officer of the Home Owners Association is the head of the private body. The Information Officer may appoint Deputy Information Officers should it be necessary to perform its duties and responsibilities. The Information Officer and Deputy Information Officer/s is/are required to be registered with the Information Regulator.

6.2 The Information Officer and/or Deputy Information Officer of the Home Owners Association is/are responsible for:

- Encouraging compliance with PAIA and POPIA;
- Dealing with requests for access;
- Working with the Information Regulator relating to investigations;
- Determining whether to grant a request for access to a complete/full record or only part of a record; and
- Providing adequate notice and feedback to the requester.

6.3 All requests for information must be addressed to the Information Officer / Deputy

Information Officer. The Information Officer's details are as follows:

Information Office / Chairperson	
Full Names and Surname	Alison Kitching
Physical address	47 Shongweni Road, Hillcrest, 3610, KZN
Postal address	47 Shongweni Road, Hillcrest, 3610, KZN

Telephone Number	074 603 2900
Email address	estatemanager@plantationsestate.co.za

7. HUMAN RIGHTS COMMISSION'S PAIA GUIDE

7.1 Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission ("SAHRC"), which contains information for the purposes of exercising Constitutional Rights.

7.2 The Guide is available from the SAHRC, the details of which are set out below:

SAHRC

Head Office

Braampark Forum 3

33 Hoofd Street

Braamfontein

Postal address

Private Bag 2700

Houghton

2041

Telephone Number: +27-11-877 3600

Email address: paia@sahrc.org.za

Website: www.sahrc.org.za

8. CATEGORIES OF RECORDS THAT ARE AUTOMATICALLY AVAILABLE

8.1 No notice has been published on the categories of records that are automatically available without a person having to request access in terms of PAIA3.

9. RECORDS OF THE HOME OWNERS ASSOCIATION THAT ARE AVAILABLE IN ACCORDANCE WITH OTHER LEGISLATION

9.1 The Home Owners Association holds records in terms of the legislation set out below, which, unless disclosure is prohibited in terms thereof or by agreement, requests for access thereto may be made in terms of such legislation read with PAIA and POPIA.

Title	Number
Attorneys Act	53 of 1979
Auditing Professions Act	26 of 2005
Basic Conditions of Employment Act	75 of 1997
Community Schemes Ombud Service Act	9 of 2011
Companies Act	71 of 2008
Compensation of Occupational Injuries & Diseases Act	130 of 1993

Consumer Protection Act	68 of 2008
Debt Collectors Act	114 of 1998
Electronic Communications and Transactions Act	25 of 2002
Financial Intelligence Centre Act	38 of 2001
Identification Act	68 of 1997
Income Tax Act	58 of 1962
Labour Relations Act	66 of 1995
Legal Practitioners Act	28 of 2014
Occupational Health and Safety Act	85 of 1993
Promotion of Access to Information Act	2 of 2000
Protection of Personal Information Act	4 of 2013
Skills Development Act	9 of 1999
Unemployment Contributions Act	63 of 2001
Unemployment Insurance Act	30 of 1966
Value Added Tax Act	89 of 1991

9.2 Where any specific legislation may be omitted from the above list, a requester may lodge a request with the Information Officer in terms of such legislation read with PAIA and POPIA and the Information Officer will consider such request in light thereof.

9.3 Records of a public nature and other statutory records may be accessed without a formal application.

10. RECORDS OF THE HOME OWNERS ASSOCIATION THAT ARE AVAILABLE ONLY ON REQUEST TO ACCESS IN TERMS OF PAIA

10.1 The Home Owners Association ("HOA") maintains the categories of records set out in the table below:

Category	Record	Purpose	Data Subject
Administrative	HOA Rules	Legal requirements	HOA
	Email correspondence	Management	HOA
	Health & Safety Plan	Legal requirements	HOA
	Insurance Policies	Legal requirements	HOA
	Internal Correspondence	Internal management	HOA
	Managing Agent Correspondence	Legal requirements	HOA
	Minutes of Board / AGM Meetings	Legal requirements	HOA
	Resolutions and Governances	Legal requirements	HOA
	Visitors Registers	Legal requirements	HOA
HOA Members	Email Correspondence	Internal management	HOA Members
	Member Agreements	Internal management	HOA Members
	Member Correspondence	Internal management	HOA Members
	Member Database	Internal correspondence	HOA Members
Financial	Audit Reports	Internal management	HOA
	Bank Statements	Internal management	HOA
	Financial Statements	Internal management	HOA
	Levy Statements	Internal management	HOA
	Disciplinary Codes	Internal management	Employees
	Employment Contracts	Internal management	Employees
	Job Applications	Internal management	Employees

	PAYE Records	Internal management	Employees
	Personal Records	Internal management	Employees
	SETA Records	Internal management	Employees
Third Party	Financial Records	Written Agreement	Third Party
	Lease Agreements	Written Agreement	Third Party
	Rental Agreements	Written Agreement	Third Party
	Sale Agreements	Written Agreement	Third Party
	Legal Correspondence	Written Agreement	Third Party
	Supplier Agreements	Written Agreement	Third Party
Tax Records	Correspondence	Statutory Records	Employees
	Skills Levels	Statutory Records	Employees
	UIF	Statutory Records	Employees
	VAT Records	Statutory Records	Employees
	Workman's Compensation	Statutory Records	Employees

10.2 Requests for access to the records of the HOA must be made in terms of the procedure set out below.

11. PROCESS TO REQUEST ACCESS TO A RECORD OF THE HOME OWNERS ASSOCIATION

11.1 Requests must be submitted on the prescribed form (copy available as annexure hereto) to the Information Officer / Deputy Information Officer at its address or email address.

11.2 The form for a request for access must:

11.2.1 Provide sufficient particulars to enable the Information Officer / Deputy Information Officer to identify -

11.2.1.1 The requester

11.2.1.2 The records/s requested

11.2.2 Indicate which form of access is required;

11.2.3 Specify a postal address or fax number of the requester in South Africa;

11.2.4 Indicate the right the requester is seeking to exercise or protect and provide an explanation of why the record is required for such;

11.2.5 If the requester wishes to be informed of the decision in any other manner in addition to a written reply, state the manner and necessary particulars to be so informed;

11.2.6 If the request is made on behalf of another person, to submit proof thereof.

11.3 If all reasonable steps have been taken to find a record requested and there are reasonable grounds for believing that the record is in the Home Owners Association's possession but cannot be found or does not exist the Information Officer must notify the requester by way of affidavit or affirmation.

11.4 The Information Officer / Deputy Information Officer will as soon as is reasonably possible but in any event within 30 days make a decision and notify the requester of such decision. Such 30 day period may be extended once for a further period of 30 days in certain instances and on notice to the requester.

11.5 If granted the notice will state the access fee (if any) to be paid upon access, the form of access and that the requester may lodge an application with a court against the access fee to be paid. If refused the notice must state adequate reasons for the refusal, exclude any reference to the content of the record and state that the requester

may lodge an application with a court against the refusal and the procedure (including the period) for lodging the application.

11.6 The Information Officer must or may sever from any record requested such parts that cannot be disclosed and must disclose the rest.

12. GROUNDS FOR REFUSAL OF ACCESS TO A RECORD OF THE HOME OWNERS ASSOCIATION

12.1 Subject to certain exceptions (as set out below) access to information must be refused where its disclosure would involve the unreasonable disclosure of personal, commercial or confidential information about a third party or would endanger the life or safety of an individual or is otherwise privileged. Similarly, access may be refused if the record contains commercial information where disclosure could cause harm, disadvantage or prejudice.

12.2 The Information Officer must refuse a request for access to information where disclosure would involve unreasonable disclosure of personal information about a third party (including a deceased individual) except where:

12.2.1 the individual has consented in writing;

12.2.2 is already publicly available;

12.2.3 the individual provided the information and was informed beforehand that the information belongs to a class of information that would or could be made available to the public;

12.2.4 the information relates to health or wellbeing of someone under the care of the requester who is under 18 years old and incapable of understating the nature of the request and such access would be in the individuals best interests;

12.2.5 the information relates to a deceased and the requester is, or has the consent of, the next of kin;

12.2.6 the information relates to an individual's position or function;

12.2.7 the record contains

12.2.7.1 trade secrets of a third party;

12.2.7.2 financial, commercial, scientific or technical information of third party the disclosure of which would likely cause harm,

12.2.7.3 information supplied in confidence by a third party, the disclosure of which could put that third party at a disadvantage or prejudice -

Except where consented in writing or the results of any product or environmental testing or investigation carried out by a third party and its disclosure would reveal a serious public safety or environmental risk;

12.2.8 Disclosure would constitute an action for breach of duty of confidence owed to a third party in terms of an agreement;

12.2.9 Disclosure would endanger life or physical safety of an individual;

12.2.10 Record is privileged from production in legal proceedings, unless privilege is waived;

12.2.11 Record contains information about research being or to be carried out by or on behalf of a third party the disclosure of which is likely to expose the third party; a person that is or will be carrying out the research on behalf of the third party; or the subject matter of the research to serious disadvantage.

12.3 The Information Officer may refuse a request for access to information where:

12.3.1 Disclosure would likely prejudice or impair

12.3.1.1 security of a building, structure or system, including a computer or communication system, a means of transport or any other property

or

12.3.1.2 methods, systems or plans and procedures for the protection of a witness in protection, the safety of the public or security of property¹⁷;

12.3.2 Record

12.3.2.1 Contains trade secrets of the Home Owners Association;

12.3.2.2 Contains financial, commercial, scientific or technical information of the Home Owners Association the disclosure of which would likely cause harm;

12.3.2.3 Contains information, the disclosure of which could reasonably be expected to put the Home Owners Association at a disadvantage in contractual negotiations or prejudice the Home Owners Association in commercial completion;

12.3.2.4 Is a computer program

Except if it contains information about the results of any product or environmental testing or other investigation carried out by or on behalf of the Home Owners Association and its disclosure would reveal a serious public safety or environmental risk.

12.3.3 Record contains information about research being or to be carried out by or on behalf of a third party the disclosure of which is likely to expose the Home Owners Association; or a person that is or will be carrying out the research on behalf of the Home Owners Association; or the subject matter of the research to serious disadvantage.

13. MANDATORY DISCLOSURE OF RECORDS OF THE HOME OWNERS ASSOCIATION IN THE PUBLIC INTEREST

13.1 The Information Officer must grant a request for access to a record of the Home Owners

Association if:

13.1.1 The disclosure would reveal evidence of a substantial contravention of or failure to comply with the law or imminent and serious public safety or environmental risk;

13.1.2 The public interest in the disclosure clearly outweighs the harm contemplated.

14. THIRD PARTY NOTIFICATION AND INTERVENTION OF A REQUEST FOR ACCESS TO A RECORD OF THE HOME OWNERS ASSOCIATION

14.1 The Information Officer considering a request for access to a record that might relate to a third party, contain commercial information of a third party, require an agreed duty of confidence or relate to research information of a third party and the disclosure would expose them to serious disadvantage must take all reasonable steps to inform the third party of the request.

14.2 The third party may either consent to or refuse the request for access. The Information Officer must consider the third parties response, or where they could not be located such fact, and will make a decision, in terms of the provisions of PAIA on whether or not to grant access.

15. APPEALS AGAINST DECISIONS OF THE HOME OWNERS ASSOCIATION

15.1 A requestor aggrieved by a decision of the Information Officer to refuse a request for access, fees, time periods or forms of access may within 30 days apply to a court for appropriate relief and a Third Party aggrieved by a decision of the Information Officer regarding access to a record may similarly apply within 30 days to Court for appropriate relief.

16. FEES FOR ACCESS AND REPRODUCTION OF RECORDS

Copies of a manual

16.1 A copy of the manual can be obtained for a fee of R1,10 for every photocopy of an A4 page.

Reproduction fees

16.2 Where information is automatically available from the Home Owners Association, the fees for reproducing copies or transcriptions of the information are charged, as set out below.

Access fees

16.3 Access fees are the fees charged for copies or transcriptions of information requested in terms of PAIA, as set out below.

Other fees

16.4 **Request fees** of R50,00 is the fee payable by a non-personal requester who wants access to a record.

16.5 A **search fee** of R30,00 per hour or part thereof is the fee payable for searching and preparing the record for disclosure.

16.6 The Information Officer must by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before processing the request. Personal requesters will be charged the cost of reproduction only.

16.7 If the request is not limited to records containing information which is personal to the requester and if the head of the private body is of the opinion that the time taken to give effect to the request will exceed six hours the requester can be called upon to pay a deposit of not more than one third of an estimate of the access fee which will become payable.

16.8 If a deposit has been paid in respect of a request for access which is refused the Information Officer must repay the deposit. The Information Officer shall withhold a record until the requester has paid the applicable fees, if any.

16.9 The Home Owners Association's bank account details will be provided to the requester at the time that the request for access is made, where a deposit is required.

16.10 The fees prescribed in the PAIA Regulations applicable to Home Owners Associations are set out below.

Item	Description	Fee
1	The fee for a copy of the manual as contemplated in regulation 9(2)(c) for every photocopy of an A4 size page or part thereof	R1,10
2	The fees for reproduction referred to in regulation 11(1) are as follows:	
a	For every photocopy of an A4 size page or part thereof	R1,10
b	For every printed copy of an A4 size page or part thereof held on a computer or in electronic or machine-readable form	R0,75
c	For a copy in a computer readable form on -	

	(i) Stiffy disc	R7,50
	(ii) Compact disc	R70,00
d	(i) For a transcription of visual images, for an A4 size page or part thereof	R40,00
	(ii) For a copy of visual images	R60,00
e	(e) (i) For a transcription of an audio record, for an A4 size page or part thereof	R20,00
	(ii) For a copy of an audio record	R30,00
3	The <u>request fee</u> payable by a requester, other than a personal requester, referred to in regulation 11 (2) is R50,00	R50,00
4	The <u>access fees</u> payable by a requester referred to in regulation 11(3) are as follows:	
(1)(a)	For every photocopy of an A4 sized page or part thereof	R1,10
(b)	For every printed copy of an A4 size page or part thereof held on a computer or in electronic or machine-readable form	R0,75
(c)	For a copy in a computer readable form on -	R
	(i). Stiffy disc	R7,50
	(ii). Compact disc	R70,00
(d)	(i) For a transcription of visual images, for an A4 size page or part thereof	R40,00
	(ii) For a copy of visual images	R60,00
(e)	(i) For a transcription of an audio record, for an A4 size page or part thereof	R20,00
	(ii) For a copy of an audio record	R30,00
(f)	To search for and prepare the record of disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation	R30,00
(2)	For purposes of section 54(2) of the Act (PAIA), the following applies	
(a)	Six hours as the hours to be exceeded before a deposit is payable; and	
(b)	One third of the access fee is payable as a deposit by the requester	
(3)	The actual postage is payable when a copy of a record must be posted to a requester	

17. AVAILABILITY AND UPDATING OF THE PAIA MANUAL

Regulation Number R.187 of 15 February 2002

17.1 This PAIA Manual of the Home Owners Association is made available in terms of Regulation No. R.187 of 15 February 2002 and is available to view at its premises.

17.2 A copy will be made available against payment of the prescribed fee, as set out above.

17.3 The PAIA Manual will be updated as may be necessary.

18. PROTECTION OF PERSONAL INFORMATION PROCESSED BY THE HOME OWNERS ASSOCIATION

18.1 In order for the Home Owners Association to fulfil its statutory obligations, it necessarily processes personal information. The Home Owners Association will accordingly only process personal information in terms of POPIA and will only provide access thereto in accordance with PAIA.

18.2 POPIA sets out the eight necessary conditions for the processing of information, subject to specified exclusions and exemptions. The conditions are the following:

- Accountability;
- Processing limitation;
- Purpose specification;
- Further processing limitation;
- Information quality;
- Openness;
- Security safeguards; and
- Data subject participation.

Condition 1 – Accountability

Responsible party to ensure conditions for lawful processing

18.3 The responsible party must ensure that the conditions, and all measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

Condition 2 - Processing limitation

Lawfulness of processing

18.4 Personal information must be processed -

18.4.1 lawfully;

18.4.2 in a reasonable manner that does not infringe the privacy of the data subject.

Minimality

18.5 Personal information may only be processed if, given the purpose for which it is processed, it is adequate, relevant and not excessive.

Consent, justification and objection

18.6 Personal information may only be processed if –

18.6.1 the data subject or a competent person where the data subject is a child consents to the processing;

18.6.2 processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party;

18.6.3 processing complies with an obligation imposed by law on the responsible party;

18.6.4 processing protects a legitimate interest of the data subject;

18.6.5 processing is necessary for the proper performance of a public law duty by a public

body; or

18.6.6 processing is necessary for pursuing the legitimate interests of the responsible party or of a third party to whom the information is supplied.

18.7 The responsible party bears the burden of proof for the data subject's or competent

person's consent.

18.8 The data subject or competent person may withdraw his, her or its consent, as referred to above, at any time: Provided that the lawfulness of the processing of personal information before such withdrawal or the processing of personal information in terms of the above will not be affected.

18.9 A data subject may object, at any time, to the processing of personal information -

18.9.1 in terms of subsection (1)(d) to (f), in the prescribed manner, on reasonable grounds relating to his, her or its particular situation, unless legislation provides for such processing; or

18.9.2 for purposes of direct marketing other than direct marketing by means of unsolicited electronic communications as referred to in section 69.

18.10 If a data subject has objected to the processing of personal information in terms of subsection (3), the responsible party may no longer process the personal information.

Collection directly from the data subject

18.11 Personal information must be collected directly from the data subject, except as otherwise provided for below.

18.12 It is not necessary to comply with the above if -

18.12.1 the information is contained in or derived from a public record or has deliberately been made public by the data subject;

18.12.2 the data subject or a competent person where the data subject is a child has consented to the collection of the information from another source

18.12.3 collection of the information from another source would not prejudice a legitimate interest of the data subject;

18.12.4 collection of the information from another source is necessary -

- to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
- to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
- for the conduct of proceedings in any court or tribunal that have commenced or are reasonably contemplated;
- in the interests of national security; or
- to maintain the legitimate interests of the responsible party or of a third party to whom the information is supplied;

18.12.5 compliance would prejudice a lawful purpose of the collection; or

18.12.6 compliance is not reasonably practicable in the circumstances of the particular case.

Condition 3 – Purpose specification

Collection for specific purpose

18.13 Personal information must be collected for a specific, explicitly defined and lawful purpose related to a function or activity of the responsible party.

18.14 Steps must be taken in accordance with section 18(1) to ensure that the data subject is aware of the purpose of the collection of the information unless the provisions of section 18(4) are applicable.

Retention and restriction of records

18.15 Subject to subsections (2) and (3), records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, unless –

18.15.1 retention of the record is required or authorised by law;

18.15.2 the responsible party reasonably requires the record for lawful purposes related to its functions or activities;

18.15.3 retention of the record is required by a contract between the parties thereto; or

18.15.4 the data subject or a competent person where the data subject is a child has consented to the retention of the record.

18.16 Records of personal information may be retained for periods in excess of those contemplated in subsection (1) for historical, statistical or research purposes if the responsible party has established appropriate safeguards against the records being used for any other purposes.

18.17 A responsible party that has used a record of personal information of a data subject to make a decision about the data subject, must –

18.17.1 retain the record for such period as may be required or prescribed by law or a code of conduct; or

18.17.2 if there is no law or code of conduct prescribing a retention period, retain the record for a period which will afford the data subject a reasonable opportunity, taking all considerations relating to the use of the personal information into account, to request access to the record.

18.18 A responsible party must destroy or delete a record of personal information or de-identify it as soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of subsection (1) or (2)

18.18.1 The destruction or deletion of a record of personal information in terms of subsection (4) must be done in a manner that prevents its reconstruction in an intelligible form.

18.18.2 The responsible party must restrict processing of personal information if –

- its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
- the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof
- the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
- the data subject requests to transmit the personal data into another automated processing system

18.19 Personal information referred to in subsection (6) may, with the exception of storage, only be processed for purposes of proof, or with the data subject's consent, or with the consent of a competent person in respect of a child, or for the protection of the rights of another natural or legal person or if such processing is in the public interest.

18.20 Where processing of personal information is restricted pursuant to subsection (6), the responsible party must inform the data subject before lifting the restriction on processing.

Condition 4 – Further processing limitation

Further processing to be compatible with purpose of collection

18.21 Further processing of personal information must be in accordance or compatible with the purpose for which it was collected in terms of section 13.

18.22 To assess whether further processing is compatible with the purpose of collection, the responsible party must take account of -

18.22.1 the relationship between the purpose of the intended further processing and the purpose for which the information has been collected;

18.22.2 the nature of the information concerned;

18.22.3 the consequences of the intended further processing for the data subject;

18.22.4 the manner in which the information has been collected; and

18.22.5 any contractual rights and obligations between the parties.

18.23 The further processing of personal information is not incompatible with the purpose of collection if -

18.23.1 the data subject or a competent person where the data subject is a child has consented to the further processing of the information;

18.23.2 the information is available in or derived from a public record or has deliberately been made public by the data subject;

18.23.3 further processing is necessary -

- to avoid prejudice to the maintenance of the law by any public body including the prevention, detection, investigation, prosecution and punishment of offences;
- to comply with an obligation imposed by law or to enforce legislation;
- concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
- for the conduct of proceedings in any court or tribunal that have commenced or are reasonably contemplated; or
- in the interests of national security.

18.24 the further processing of the information is necessary to prevent or mitigate a serious and imminent threat to -

18.24.1 public health or public safety; or

18.24.2 the life or health of the data subject or another individual;

18.24.3 the information is used for historical, statistical or research purposes and the responsible party ensures that the further processing is carried out solely for such purposes and will not be published in an identifiable form; or

18.24.4 the further processing of the information is in accordance with an exemption granted under section 37.

Condition 5 - Information quality

Quality of information

18.25 A responsible party must take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

18.26 In taking the steps referred to in subsection (1), the responsible party must have regard to the purpose for which personal information is collected or further processed.

Condition 6 – Openness

Documentation

18.27 A responsible party must maintain the documentation of all processing operations under its responsibility as referred to in section 14 or 51 of PAIA.

Notification to data subject when collecting personal information

18.28 If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of -

18.28.1 the information being collected and where the information is not collected from the data subject, the source from which it is collected;

18.28.2 the name and address of the responsible party;

18.28.3 the purpose for which the information is being collected;

18.28.4 whether or not the supply of the information by that data subject is voluntary or mandatory;

18.28.5 the consequences of failure to provide the information;

18.28.6 any particular law authorising or requiring the collection of the information;

18.28.7 the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;

18.28.8 any further information such as the -

- recipient or category of recipients of the information;
- nature or category of the information;
- existence of the right of access to and the right to rectify the information collected;
- existence of the right to object to the processing of personal information as referred to in section 11(3); and
- right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

18.29 The steps referred to in subsection (1) must be taken -

18.29.1 if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or

18.29.2 in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

18.30 A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.

18.31 It is not necessary for a responsible party to comply with subsection (1) if -

18.31.1 the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;

18.31.2 non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;

18.31.3 non-compliance is necessary -

- to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
- to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
- for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
- in the interests of national security;

18.31.4 compliance would prejudice a lawful purpose of the collection;

18.31.5 compliance is not reasonably practicable in the circumstances of the particular case; or

18.31.6 the information will -

- not be used in a form in which the data subject may be identified; or
- be used for historical, statistical or research purposes.

Condition 7 – Security Safeguards

Security measures on integrity and confidentiality of personal information

18.32 A responsible party must secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent -

18.32.1 loss of, damage to or unauthorised destruction of personal information; and

18.32.2 unlawful access to or processing of personal information

18.32.3 In order to give effect to subsection (1), the responsible party must take reasonable measures to -

18.32.4 identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;

18.32.5 establish and maintain appropriate safeguards against the risks identified;

18.32.6 regularly verify that the safeguards are effectively implemented; and

18.32.7 ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

18.33 The responsible party must have due regard to generally accepted information security practices and procedures which may apply to it generally or be required in terms of specific industry or professional rules and regulations. Information processed by operator or person acting under authority⁴⁰

18.34 An operator or anyone processing personal information on behalf of a responsible party or an operator, must -

18.34.1 process such information only with the knowledge or authorisation of the responsible party; and

18.34.2 treat personal information which comes to their knowledge as confidential and must not disclose it, unless required by law or in the course of the proper performance of their duties.

Security measures regarding information processed by operator

18.35 A responsible party must, in terms of a written contract between the responsible party and the operator, ensure that the operator which processes personal information for the responsible party establishes and maintains the security measures referred to in section 19.

18.36 The operator must notify the responsible party immediately where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person.

Notification of security compromises

18.37 Where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person, the responsible party must notify -

18.37.1 the Regulator; and

18.37.2 subject to subsection (3), the data subject, unless the identity of such data subject cannot be established.

18.38 The notification referred to in subsection (1) must be made as soon as reasonably possible after the discovery of the compromise, taking into account the legitimate needs of law enforcement or any measures reasonably necessary to determine the scope of the compromise and to restore the integrity of the responsible party's information system.

18.39 The responsible party may only delay notification of the data subject if a public body responsible for the prevention, detection or investigation of offences or the Regulator determines that notification will impede a criminal investigation by the public body concerned.

18.40 The notification to a data subject referred to in subsection (1) must be in writing and communicated to the data subject in at least one of the following ways:

18.40.1 Mailed to the data subject's last known physical or postal address;

18.40.2 sent by e-mail to the data subject's last known e-mail address;

18.40.3 placed in a prominent position on the website of the responsible party;

18.40.4 published in the news media; or

18.40.5 as may be directed by the Regulator.

18.41 The notification referred to in subsection (1) must provide sufficient information to allow the data subject to take protective measures against the potential consequences of the compromise, including -

18.41.1 a description of the possible consequences of the security compromise;

18.41.2 a description of the measures that the responsible party intends to take or has taken to address the security compromise;

18.41.3 a recommendation with regard to the measures to be taken by the data subject to mitigate the possible adverse effects of the security compromise; and

18.41.4 if known to the responsible party, the identity of the unauthorised person who may have accessed or acquired the personal information.

18.42 The Regulator may direct a responsible party to publicise, in any manner specified, the fact of any compromise to the integrity or confidentiality of personal information, if the Regulator has reasonable grounds to believe that such publicity would protect a data subject who may be affected by the compromise.

Condition 8 – Data Subject Participation

Access to personal information

18.43 A data subject, having provided adequate proof of identity, has the right to –

18.43.1 request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and

18.43.2 request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—

- within a reasonable time;
- at a prescribed fee, if any;
- in a reasonable manner and format; and
- in a form that is generally understandable

18.44 If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.

18.45 If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—

18.45.1 must give the applicant a written estimate of the fee before providing the services; and

18.45.2 may require the applicant to pay a deposit for all or part of the fee

18.46 A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.

18.47 The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.

18.48 If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.

Correction of personal information

18.49 A data subject may, in the prescribed manner, request a responsible party to—

18.49.1 correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or

18.49.2 destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.

18.50 On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—

18.50.1 Correct the information;

18.50.2 Destroy or delete the information;

18.50.3 provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or

18.50.4 where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.

18.50.5 If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps;

18.50.6 The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

Manner of access

18.51 The provisions of sections 18 and 53 of PAIA (form of access) apply to requests made in terms of section 23 of POPIA (as set out above).

Part B – Processing of special personal information

18.52 Part B deals with the manner in which special personal information is to be processed and the restrictions and exceptions around such.

Part C – Processing of special personal information of children

18.53 Part C similarly sets out how special personal information in respect of children is to be processed.

Chapter 4 Exemptions from conditions for processing of personal information

18.54 Chapter 4 deals with the exemptions from the conditions for processing of personal information if the Regulator grants an exemption or is processed for the purpose of discharging a relevant function, as defined, which is performed with the view to protecting members of the public against dishonesty, malpractice or incompetence of, amongst others, bodies corporate.

Chapter 9 Transborder information flows

18.55 Chapter 9 prohibits a responsible party in the Republic from transferring personal information about a data subject to a third party who is in a foreign country unless

18.55.1 the third party who receives such is bound by a law, corporate rules or an agreement which provide an adequate level of protection;

18.55.2 the data subject consents;

18.55.3 the transfer is necessary for the conclusion or performance of a contract; or

18.55.4 the transfer is of benefit to the data subject (and if it was obtainable the data subject would likely consent).

19. PRESCRIBED FORMS

19.1 The forms prescribed in terms of PAIA and POPIA are annexed hereunder.

FORM C**REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY**

(Section 53 (1) of the Promotion of Access to Information Act, 2000

(Act No. 2 of 2000))

[Regulation 10]

A. Particulars of private body

The Head:

.....

.....

.....

B. Particulars of person requesting access to the record

- (a) The particulars of the person who requests access to the record must be given below.
- (b) The address and/or fax number in the Republic to which the information is to be sent must be given.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

.....

.....

Identity number:

Postal address:

.....

.....

..... Fax number:

Telephone number: E-mail address:

Capacity in which request is made, when made on behalf of another person:

.....

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

.....

.....

Identity number:

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
 (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.**

1. Description of record or relevant part of the record:

.....

2. Reference number, if available:

3. Any further particulars of record:

4.

.....

E. Fees

(a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.

(b) You will be notified of the amount required to be paid as the request fee.

(c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.

(d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

.....

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:.....	Form in which record is required:
------------------------------------	---

Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:			
<input type="checkbox"/> copy of record*	<input type="checkbox"/> inspection of record		
2. If record consists of visual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):			
<input type="checkbox"/> view the images	<input type="checkbox"/> copy of the images*	<input type="checkbox"/> transcription of the images*	
3. If record consists of recorded words or information which can be reproduced in sound:			
<input type="checkbox"/> Listen to the soundtrack (audio cassette)	<input type="checkbox"/> Transcription of soundtrack* (written or printed document)		
4. If record is held on computer or in an electronic or machine-readable form:			
<input type="checkbox"/> Printed copy of record	<input type="checkbox"/> Printed copy of information derived from the record*	<input type="checkbox"/> Copy in computer readable form*	
* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?			<input type="checkbox"/> YES <input type="checkbox"/> NO
Postage is payable.			

G. Particulars of right to be exercised or protected

--

If the provided space is inadequate, please continue on a separate folio and attach it to this form.

The requester must sign all the additional folios.

1. Indicate which right is to be exercised or protected:

.....

2. Explain why the record requested is required for the exercise or protection of the

Aforementioned right:

.....

.....

.....

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

Signed atthis.....day of.....20.....

.....
SIGNATURE OF REQUESTER/PERSON ON WHOSE
BEHALF REQUEST IS MADE

FORM 1

**OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION IN TERMS OF
SECTION 11(3) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.
4 OF 2013)
REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2018
[Regulation 2]**

Note:

- 1 Affidavits or other documentary evidence as applicable in support of the objection may be attached.
- 2 If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.
- 3 Complete as is applicable.

A	DETAILS OF DATA SUBJECT
Name(s) and surname/ registered name of data subject:	
Unique Identifier/ Identity Number	
Residential, postal or business address:	
	Code ()
Contact number(s):	
Fax number / E-mail address:	

B	DETAILS OF RESPONSIBLE PARTY
Name(s) and surname/ Registered name of responsible party:	
Residential, postal or business address:	
	Code ()
Contact number(s):	
Fax number/ E-mail address:	
C	REASONS FOR OBJECTION IN TERMS OF SECTION 11(1)(d) to (f) (Please provide detailed reasons for the objection)

Signed at this day of20.....

.....

Signature of data subject/designated person

FORM 2

REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION IN TERMS OF SECTION 24(1) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO. 4 OF 2013) REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2018 [Regulation 3]

Note:

1. Affidavits or other documentary evidence as applicable in support of the request may be attached.
2. If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.
3. Complete as is applicable.

Mark the appropriate box with an "x".

Request for:

☐

Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.

- ☐ Destroying or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information.

A	DETAILS OF THE DATA SUBJECT
Name(s) and surname / registered name of data subject:	
Unique identifier/ Identity Number:	
Residential, postal or business address:	
	Code ()
Contact number(s):	
E-mail address:	
B	DETAILS OF RESPONSIBLE PARTY
Name(s) and surname / registered name of data subject:	
Residential, postal or business address:	
	Code ()
Contact number(s):	
E-mail address:	
C	INFORMATION TO BE CORRECTED/DELETED/DESTRUCTED/DESTROYED
D	<p>REASONS FOR CORRECTION OR DELETION OF THE PERSONAL INFORMATION ABOUT THE DATA SUBJECT IN TERMS OF SECTION 24 (1)(a) WHICH IS IN POSSESSION OR UNDER THE CONTROL OF THE RESPONSIBLE PARTY; and/or</p> <p>REASONS FOR *DESTRUCTION OR DELETION OR A RECORD OF PERSONAL INFORMATION ABOUT THE DATA SUBJECT IN TERMS OF SECTION 24(1)(b) WHICH THE RESPONSIBLE PARTY IS NO LONGER AUTHORISED TO RETAIN.</p> <p>(Please provide detailed reasons for the request)</p>

Signed at this day of20.....

.....

Signature of data subject/ designated person

FORM 3

APPLICATION FOR THE ISSUE OF A CODE OF CONDUCT IN TERMS OF SECTION
61(1)(b) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT
NO. 4 OF 2013)

REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION,
2018 [Regulation 5]

A DETAILS OF PRIVATE OR PUBLIC BODY

A	DETAILS OF THE DATA SUBJECT
Name of the body	
Private / Public body	
List the class of body or any industry size, profession, or vocation, you represent. (<i>Attach proof of representation</i>)	
Total number of members of industry, or any class of bodies, profession or vocation	
Proportion of representation (expressed as a percentage) in the industry, class of bodies, profession or vocation (<i>Attach proof of representation</i>)	
Business address	
	Code ()
Contact numbers	
Email address	
B	DETAILS OF PERSON WHO COMPLETES THIS FORM
Name(s) and surname of person completing this form	
Does the person completing this Form have the authorisation of the body he/she represents to lodge this application? (<i>attach authorisation</i>)	
Business address (<i>if</i>	

different from body's address):	
	Code ()
Contact number(s):	
E-mail address:	
C	REASONS FOR APPLICATION FOR INFORMATION REGULATOR TO ISSUE A CODE OF CONDUCT <i>(Please provide detailed reasons for the request and supporting documentation)</i>

Signed at this day of20.....

.....
Signature of the person completing the form