

ENS PAIA Manual

<b>Level</b>	Group
<b>Classification</b>	Public
<b>Policy owner</b>	Information Officer/Risk and Compliance Team
<b>Approved by</b>	ENS Chief Operating Officers (COOs)
<b>Date</b>	JUL 2021
<b>Date of last review</b>	FEB 2024
<b>Frequency of review</b>	Annual
<b>Date of next review</b>	MAR 2025



## 1. DEFINITIONS

- 1.1. "**Agreement**" means a written agreement between ENS and a third party;
- 1.2. "**Client**" means any prospective, new or existing Client of ENS and its subsidiaries;
- 1.3. "**Data Subject**" for the purpose of this document include all living individuals and juristic persons about whom ENS holds Personal Information;
- 1.4. "**Device**" and "**Mobile Device**" means tablets, mobile or cellular phones, smartphones, handheld computers, PDAs, and laptop or notebook computers, including any accompanying software or hardware;
- 1.5. "**Employee**" means any person who works for or provides services to or on behalf of ENS and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting the business of ENS. This includes partners, directors, all permanent, temporary and part-time Employees as well as consultants, independent consultants, agency workers and contract workers;
- 1.6. "**ENS**" means ENS and/or any of its subsidiaries and/or any other legal entity, joint venture and/or partnership, wherever situated or operating (and irrespective of structure and/or legal nature/regime) that renders services or otherwise conducts business under a name which includes ENS and/or Edward Nathan or any variation thereof (including their subsidiaries, parties that are related or inter-related to them and/or their affiliated companies, to the extent applicable) and/or any trust founded by ENS for its own operations and/or any entities that are related and/or inter-related to those trusts, as the case may be, and all such entities' successors-in-title and/or practice, (collectively "**ENS Group**") (wherever any such members may be located, including in countries which may not have data-protection laws similar to South Africa);
- 1.7. "**Image**", "**Photograph**" and "**video images**" refer to any kind of image capture, still or moving, obtained by any photographic device including still image cameras, video cameras, webcams and photographic enabled mobile telephones, and any other type of image capture device not specified here, whether digital or not, using technology existent from time to time, the Processing (including storage) of such images includes film negative, film positive (e.g. transparencies and slides, movies, etc.), photographic paper, digital media, magnetic tape and any other kind of storage method able to be used for the storage of images, still or moving, available now or in the future;



- 1.8. **"IO"** means the Information Officer appointed as such by ENS in terms of section 56 of POPIA and who will have the ultimate responsibility to ensure that ENS complies with the provisions of POPIA;
- 1.9. **"PAIA"** means the Promotion of Access to Information Act, 2000;
- 1.10. **"Personal Information"** means information relating to an identifiable, living, natural person, and (where applicable) an identifiable, existing juristic person in particular by reference to an identification number or to one or more factors specific to physical, physiological, mental, economic, cultural or social identity, including the name, race, gender, marital status, address and identifying number of a person, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person, recruitment details, financial history and the like. It also includes opinions about individuals as well as facts and also applies to corporate contacts;
- 1.11. **"POPIA"** means the Protection of Personal Information Act, 2013, including any regulations and/or code of conduct made under that Act;
- 1.12. **"Processing"** refers to any activity that involves use of Personal Information. It includes any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including:
  - 1.12.1. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
  - 1.12.2. dissemination by means of transmission, distribution or making available in any other form; or
  - 1.12.3. merging, linking, as well as restriction, degradation, erasure or destruction of Personal Information;
- 1.13. **"Record"** means any recorded information:
  - 1.13.1. regardless of form or medium, including any of the following:
    - 1.13.1.1. writing on any material;
    - 1.13.1.2. information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other Device, and any material subsequently derived from information so produced, recorded or stored;

- 1.13.1.3. label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
  - 1.13.1.4. book, map, plan, graph or drawing;
  - 1.13.1.5. photograph, film, negative tape, or other Device in which one or more visual Images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;
  - 1.13.2. in the possession or under the control of a Responsible Party;
  - 1.13.3. whether or not it was created by a Responsible Party; and
  - 1.13.4. regardless of when it came into existence;
- 1.14. "**Responsible Party**" is the person who or organisations which determine the purposes for which, and the manner in which, any personal information is processed. They have a responsibility to establish practices and policies in line with POPIA. ENS is the responsible party of all Personal Information used in its business; and
- 1.15. "**Special Personal Information**" includes Personal Information concerning the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health, sex life or biometric information of a Data Subject, or the criminal behaviour of a Data Subject to the extent that such information relates to the alleged commission by a Data Subject of any offence; or any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings.

## 2. **PREAMBLE**

- 2.1. PAIA came into operation on 9 March 2001. PAIA seeks, among other things, to give effect to the Constitutional right of access to any information held by the State or by any other person where such information is required for the exercise or protection of any right and gives natural and juristic persons the right of access to Records held by either a private or public body, subject to certain limitations, in order to enable them to exercise or protect their rights. Where a request is made in terms of PAIA to a private body, that private body must disclose the information if the requester is able to show that the Record is required for the exercise or protection of any rights, and provided that no grounds of refusal contained in PAIA are applicable. PAIA sets out the requisite procedural issues attached to information requests.
- 2.2. Section 51 of PAIA obliges private bodies to compile a manual to enable a person to obtain access to information held by such private body and stipulates the minimum requirements that the manual has to comply with.

- 2.3. This Manual constitutes ENS's PAIA manual. This Manual is compiled in accordance with section 51 of PAIA as amended by POPIA, which gives effect to everyone's constitutional right to privacy. POPIA promotes the protection of Personal Information processed by public and private bodies, including certain conditions so as to establish minimum requirements for the Processing of Personal Information. POPIA amends certain provisions of PAIA, balancing the need for access to information against the need to ensure the protection of Personal Information.
- 2.4. This PAIA manual also includes information on the submission of objections to the Processing of Personal Information and requests to delete or destroy Personal Information or Records thereof in terms of POPIA. Please refer to [POPIA Forms - Information Regulator \(inforegulator.org.za\)](http://inforegulator.org.za).

### 3. ABOUT ENS

- 3.1. ENS is an African law firm, with offices in various countries.
- 3.2. This Manual is applicable to ENS's offices in South Africa.

### 4. CONTACT DETAILS OF THE IO AND DEPUTY IO

<b>Street address:</b>	Tower 1, The MARC, 129 Rivonia Road, Sandown, Sandton, 2196
<b>Postal address:</b>	Docex 152, Randburg and PO box 783347, Sandton
<b>IO Name:</b>	Lee Mendelsohn
<b>DIO Name</b>	Lucky Busizi
<b>Email address of Information Officer:</b>	<a href="mailto:info@ENSafrica.com">info@ENSafrica.com</a>
<b>Attention:</b>	The Information Officer
<b>Phone number:</b>	+27 (11) 269 7600

### 5. INFORMATION REGULATOR'S GUIDE

- 5.1. An official Guide has been compiled which contains information to assist a person wishing to exercise a right of access to information in terms of PAIA and POPIA. This Guide is made available by the Information Regulator (established in terms of POPIA). Copies of the updated Guide are available from the Information Regulator in the manner prescribed (<https://inforegulator.org.za/paia-guidelines/>). Any request for public inspection of the Guide

from the Information Officer or a request for a copy of the Guide from the Information Regulator must substantially correspond with Form 1 to Government Notice No. R.757 dated 27 August 2021 promulgated under the PAIA Regulations. Please refer to [PAIA Forms - Information Regulator \(inforegulator.org.za\)](http://www.inforegulator.org.za).

- 5.2. Any enquiries regarding the Guide should be directed to the IO, or the Information Regulator using the following contact details:

**Postal Address:** JD House  
27 Stiemens Street  
Braamfontein, Johannesburg

**General enquiries:** +27 (0) 10 023 5200

**E-mail Address:** [enquiries@inforegulator.org.za](mailto:enquiries@inforegulator.org.za)

**Website:** [www.inforegulator.org.za](http://www.inforegulator.org.za)

## 6. OBJECTIVES OF THIS MANUAL

The objectives of this Manual are:

- 6.1. to provide a list of all Records held by ENS;
- 6.2. to set out the requirements with regard to who may request information in terms of PAIA as well as the grounds on which a request may be denied;
- 6.3. to define the manner and form in which a request for information must be submitted; and
- 6.4. to comply with the additional requirements imposed by POPIA.

## 7. ENTRY POINT FOR REQUESTS

- 7.1. PAIA provides that a person may only make a request for information, if the information is required for the exercise or protection of a legitimate right.
- 7.2. Information will therefore not be furnished unless a person provides sufficient particulars to enable ENS to identify the right that the requester is seeking to protect as well as an explanation as to why the requested information is required for the exercise or protection of that right. The exercise of an individual's rights is subject to justifiable limitations, including the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance. PAIA and the request procedure contained in this Manual may not be used for access to a

Record for criminal or civil proceedings, nor should information be requested after the commencement of such proceedings.

7.3. The IO has been delegated with the task of receiving and co-ordinating all requests for access to Records in terms of PAIA, in order to ensure proper compliance with PAIA and POPIA.

7.4. All requests in terms of PAIA and this Manual must be addressed to the IO using the details above.

## 8. **AUTOMATICALLY AVAILABLE INFORMATION**

8.1. In terms of section 52(1)(a) of PAIA, the head of a private body may, on a voluntary basis, make available in the prescribed manner a description of the categories of records of the private body that are automatically available without a person having to request access in terms of this Act, including such categories available for inspection in terms of legislation other than this Act; for purchase or copying from the private body; and from the private body free of charge; and how to obtain access to such records.

8.2. In terms of regulation 5 of the Regulations relating to the Promotion of Access to Information, 20211 (“**PAIA Regulations**”), the head of a private body, may compile and keep a description of the categories of records contemplated in section 52(1)(a) of PAIA that are voluntarily disclosed or automatically available without a requester having to request access thereto. If such a description is compiled and kept, it must be updated as soon as practically possible after any amendment to the description occurs; and made available –

8.2.1. to the Information Regulator;

8.2.2. on the website of the private body; and

8.2.3. for inspection, at the registered head office of a private body concerned during normal office hours.

8.3. ENS has voluntarily decided to make such list available here below.

8.4. Information that is obtainable via the ENS website about ENS is automatically available and need not be formally requested in terms of this Manual.

8.5. The following categories of Records are automatically available for inspection, purchase or photocopying and the Regulator can access such information via the links provided below:

8.5.1. Brochures which are available at [ENS - Search \(ensafrica.com\)](https://www.ensafrica.com) ;

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<sup>1</sup> GNR.757 of 27 August 2021.

- 8.5.2. press releases which are available at [ENS - Search \(ensafrica.com\)](https://www.ensafrica.com) ;
- 8.5.3. publications which are available at [ENS - Search \(ensafrica.com\)](https://www.ensafrica.com) ; and
- 8.5.4. various other marketing and promotional material which is available at [ENS - Search \(ensafrica.com\)](https://www.ensafrica.com).

## 9. INFORMATION AVAILABLE IN TERMS OF POPIA

9.1. In terms of POPIA, Personal Information must be processed for a specified purpose. The purpose for which Personal Information is processed by ENS will depend on the nature of the Personal Information and the particular Data Subject. This purpose is ordinarily disclosed, explicitly or implicitly, at the time the Personal Information is collected. Please also refer to ENS's Privacy Policy further information, which is available at our website, <https://www.ensafrica.com/>.

9.2. Categories of Personal Information collected by ENS:

ENS may collect all types of Personal Information, including Special Personal Information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including but not limited to –

- 9.2.1. name, address (including proof of address), other contact details (e.g. email and telephone numbers), gender, marital status, date and place of birth, nationality, employer, job title, financial records and employment history, and family details, including their relationship to you;
- 9.2.2. identification numbers issued by government bodies or agencies, such as your identity number, passport number, tax identification number and driving licence number and company registration number;
- 9.2.3. demographic information such as your address, preferences and interests;
- 9.2.4. information relevant to the provision of our products and services;
- 9.2.5. information relevant to the procurement of products and services from suppliers;
- 9.2.6. bank account or payment card details, income or other financial information;
- 9.2.7. information that you provide to us as part of us providing products and services to you, which depends on the nature of your instructions to any employee or member of the ENS Group;



- 9.2.8. special or sensitive personal information as defined in applicable data protection legislation, including information about your health, racial or ethnic origin, political opinions, religious or philosophical beliefs and trade union membership; your genetic and biometric information; information about your sex life;
- 9.2.9. relevant information as required by applicable laws, including anti-money laundering legislation and as part of our client onboarding procedures, including evidence of source of funds;
- 9.2.10. information you provide to us for the purposes of attending meetings and events, including dietary requirements which may reveal information about your health or religious beliefs;
- 9.2.11. still and video images captured by CCTV at our offices. We use CCTV to help provide a safe and secure environment and you may be recorded when you visit our offices. Further information can be found in our CCTV Privacy Policy; and
- 9.2.12. identity data, contact data and special personal information from publicly available sources or third parties, service providers and the like who conduct screening on any member of the ENS Group's clients or vendors for anti-money laundering purposes, or third parties with whom any member of the ENS Group hosts events.

9.3. The purpose of Processing Personal Information:

- 9.3.1. In terms of POPIA, Personal Information must be processed for a specified purpose. The purpose for which Personal Information is processed by ENS will depend on the nature of the Personal Information and the particular Data Subject. This purpose is ordinarily disclosed, explicitly or implicitly, at the time the Personal Information is collected.
- 9.3.2. In general, Personal Information is processed for purposes of, inter alia, onboarding Clients and suppliers, service or product delivery, Record management, security, employment, giving effect to professional instructions received and related matters.

9.4. A description of the categories of Data Subjects:

ENS holds information and Records on the following categories of Data Subjects:

- 9.4.1. ENS Internal Records ;
- 9.4.2. Employees of ENS;

9.4.3. clients of ENS; and

9.4.4. any third party with whom ENS conducts business,

<b>Data Subject categories</b>	<b>Personal information that may be processed</b>
<p>Internal Records</p> <p>The Records listed pertain to ENS's own affairs</p>	<ul style="list-style-type: none"> <li>• Records relating to the incorporation of ENS's shareholders and director e.g name, surname, address (including proof of address), other contact details (e.g. email and telephone numbers), gender, registration number, marital status, date and place of birth, nationality, employer and job title.</li> <li>• Financial Records;</li> <li>• Operational Records;</li> <li>• Intellectual property;</li> <li>• Marketing Records;</li> <li>• BBBEE information;</li> <li>• Internal correspondence;</li> <li>• Service Records;</li> <li>• Statutory Records;</li> <li>• Internal policies and procedures;</li> <li>• Minutes of meetings;</li> <li>• Insurance Records, including professional indemnity insurance in respect of ENS, group life assurance and disability income protection insurance;</li> <li>• The ENS provident fund Records and rules; and</li> <li>• Information technology, including computer software, support and maintenance Agreements.</li> </ul>
<p>Employee Records</p>	<ul style="list-style-type: none"> <li>• Any personal Records provided to ENS by its Employees e.g name, surname, identity number, address (including proof of address), other contact details (e.g. email and telephone numbers), gender, marital status, date and place of birth, nationality, employer and job title.</li> </ul>

	<ul style="list-style-type: none"> <li>• Any Records a third party has provided to ENS about any of their Employees;</li> <li>• Conditions of employment and other Employee-related contractual and quasi legal Records;</li> <li>• Employment policies and procedures;</li> <li>• Internal evaluation</li> <li>• Disciplinary Records; and</li> <li>• Other internal Records and correspondence.</li> </ul>
<p>Client-related Records</p>	<ul style="list-style-type: none"> <li>• Name, surname, identity number, address (including proof of address), other contact details (e.g. email and telephone numbers), gender, marital status, date and place of birth, nationality, employer and job title.</li> <li>• Contracts with the client and between the client and other persons;</li> <li>• Details of contracts, sales or leases clients enter into with ENS;</li> <li>• Details of transactions carried out with ENS;</li> <li>• Engagement letters</li> <li>• Files including pleadings, orders, judgments, and the like; n</li> <li>• Financial Records;</li> <li>• Indemnities and guarantees</li> <li>• Intellectual Property</li> <li>• Memoranda and letters;</li> <li>• MOIs;</li> <li>• Minutes of meetings;</li> <li>• Personal Information;</li> <li>• Records of correspondence or enquiries from Clients or anyone acting on Clients' behalf;</li> <li>• Special Personal Information, including biometric information, such as Images, fingerprints and voiceprints;</li> <li>• Trusts;</li> <li>• Wills; and</li> <li>• Other Records and correspondence.</li> </ul>

<p>Other Third Party Records</p> <p>Records are kept in respect of other parties, including without limitation joint ventures and consortia to which ENS is a party, contractors and sub-contractors, suppliers, service providers, and providers of information regarding general market conditions. In addition, such third parties may possess Records which can be said to belong to ENS.</p>	<ul style="list-style-type: none"> <li>• Employee, client, or ENS Records which are held by a third party as opposed to being held by ENS; and</li> <li>• Records held by ENS pertaining to third parties, e.g VAT numbers, banking details and names , including financial records, correspondence, contractual Records, Records provided by the other party, and Records third parties have provided about the contractors or suppliers.</li> </ul>
<p>Other Records</p>	<ul style="list-style-type: none"> <li>• Information relating to ENS e.g. brochures, and press release ; and</li> <li>• Research information belonging to ENS or carried out on behalf of a third party.</li> </ul>

(this list of categories of Data Subjects is non-exhaustive).

9.5. The recipients or categories of recipients to whom the Personal Information may be supplied:

Depending on the nature of the Personal Information, ENS may supply information or Records to the following categories of recipients:

- 9.5.1. statutory oversight bodies, regulators or judicial commissions of enquiry making a request for Personal Information;
- 9.5.2. any court, administrative or judicial forum, arbitration, statutory commission, or ombudsman making a request for Personal Information or discovery in terms of the applicable rules;
- 9.5.3. South African Revenue Services, or another similar authority;
- 9.5.4. anyone making a successful application for access in terms of PAIA or POPIA; and
- 9.5.5. subject to the provisions of POPIA and other relevant legislation, ENS may share information about a client's creditworthiness with any credit bureau or credit providers industry association or other association for an industry in which ENS operates.

9.6. Planned transborder flows of Personal Information:

- 9.6.1. If a Data Subject visits ENS's website from a country other than South Africa, the various communications will necessarily result in the transfer of information across international boundaries.
  - 9.6.2. ENS may need to transfer a Data Subject's information to service providers in countries outside South Africa. These countries may not have data protection laws which are similar to those of South Africa. When ENS transfers Data Subject's Personal Information to another country, it will fully comply with applicable South African data protection legislation including POPIA and PAIA.
  - 9.6.3. ENS could transfer Data Subject's Personal Information to another country where its operate, and has offices which are ; Ghana, Kenya ,Mauritius, Namibia, Rwanda and Uganda.
- 9.7. A general description of information security measures to be implemented by ENS:
- 9.7.1. ENS takes appropriate information security measures to ensure the confidentiality, integrity and availability of Personal Information in ENS's possession. ENS takes appropriate technical and organisational measures designed to ensure that Personal Information remains confidential and secure against unauthorised or unlawful Processing and against accidental loss, destruction or damage.
  - 9.7.2. The firm has implemented the following data security measures:
    - 9.7.2.1. defined and documented information security policies, procedures, and standards;
    - 9.7.2.2. firewalls in place to control inbound and outbound traffic;
    - 9.7.2.3. regular data backups to safeguard against data loss;
    - 9.7.2.4. data loss prevention technologies and policies;
    - 9.7.2.5. enforced careful access controls to limit who can access confidential data on Devices and systems;
    - 9.7.2.6. sensitive data is encrypted to prevent unauthorised access;
    - 9.7.2.7. robust monitoring, auditing, and reporting capabilities to detect and respond to security incidents;
    - 9.7.2.8. utilisation of anti-virus and anti-malware solutions to prevent malicious attacks;

- 9.7.2.9. periodic assessments (vulnerability, penetration test, cyber etc.)
- 9.7.2.10. physical safeguards to protect physical “jewel crowns”;
- 9.7.2.11. VPN to create secure, encrypted connection between remote users and ENS’s network; and
- 9.7.2.12. security awareness program to ensure that ENS employees remain vigilant and informed about security risks and best practices.

10. **INFORMATION AVAILABLE IN TERMS OF OTHER LEGISLATION**

Where applicable to its operations, ENS retains records and documents in terms of the legislation listed in the non-exhaustive list below. Unless disclosure is prohibited in terms of legislation, regulations, contractual agreement or otherwise, records that are required to be made available in terms of these statutes shall be made available for inspection by interested parties in terms of the requirements and conditions of the relevant Act and applicable internal policies and procedures, should such interested parties be entitled to such information. A request to access must be done in accordance with the prescriptions of PAIA and the relevant legislation.

<b>Legislation</b>	<b>Records</b>
Basic Conditions of Employment Act, 1997	<ul style="list-style-type: none"> <li>• Employee details.</li> <li>• Labour relations reports.</li> <li>• Information regarding dismissals for dishonesty-related behaviour.</li> <li>• Information on disability, trade union membership, race and religion.</li> <li>• Employee next of kin or emergency contact details.</li> <li>• Conflict-of-interest declarations.</li> <li>• Education information.</li> <li>• Health and safety records.</li> <li>• Pension and provident fund records.</li> <li>• Leave records.</li> <li>• Internal evaluations and performance records.</li> <li>• Disciplinary records.</li> <li>• Training records.</li> <li>• Background checks.</li> </ul>
Broad-based Black Economic Empowerment Act, 2003	<ul style="list-style-type: none"> <li>• Skills development section on the Financial Services Council report (no unique identifiers).</li> <li>• BBBEE status</li> </ul>

	<ul style="list-style-type: none"> <li>• BBBEE status of suppliers.</li> <li>• Supplier employee information.</li> <li>• Contractor and supplier agreements.</li> <li>• List of suppliers, products, services and distributors.</li> </ul>
Companies Act, 2008	<ul style="list-style-type: none"> <li>• MOI;</li> <li>• Minutes of meetings; and</li> <li>• Other records and correspondence.</li> </ul>
Compensation for Occupational Injuries and Health Diseases Act, 1993	<ul style="list-style-type: none"> <li>• Record of the earnings and other prescribed particulars of all employees.</li> </ul>
Employment Equity Act, 1998	<ul style="list-style-type: none"> <li>• Employment equity plans and targets.</li> </ul>
Financial Intelligence Centre Act, 2001	<ul style="list-style-type: none"> <li>• Identification and verification records;</li> <li>• Client due-diligence records;</li> <li>• Risk management and compliance programme.</li> </ul>
Income Tax Act, 1962	<ul style="list-style-type: none"> <li>• IT3;</li> <li>• IRP5;</li> <li>• T3a;</li> <li>• Monthly IRP5 file;</li> <li>• Unemployment Insurance Fund (UIF) files;</li> <li>• PAYE information;</li> <li>• SDL information;</li> <li>• VAT record;</li> <li>• Ledgers;</li> <li>• Cash books;</li> <li>• Journals;</li> <li>• Bank statements;</li> <li>• Deposit slips;</li> <li>• Invoices;</li> <li>• Other books of accounts;</li> <li>• Electronic representations of information.</li> </ul>
Insolvency Act, 1936	<ul style="list-style-type: none"> <li>• Contracts with the client, third party, and between the client and other persons;</li> <li>• Details of contracts, clients, third party enter into with ENS;</li> <li>• Details of transactions carried out with ENS;</li> <li>• Engagement letters</li> </ul>

	<ul style="list-style-type: none"> <li>• Minutes of meetings;</li> <li>• Records of correspondence or enquiries from Clients or anyone acting on Clients' behalf; and</li> <li>• Other Records and correspondence</li> </ul>
Labour Relations Act, 1995	<ul style="list-style-type: none"> <li>• Disciplinary records, including outcomes;</li> <li>• Labour relations reports;</li> <li>• Arbitration awards;</li> <li>• Records of strike action and protests.</li> </ul>
Occupational Health & Safety Act, 1993	<ul style="list-style-type: none"> <li>• Occupational health and safety (OHS) reports including the following: –</li> <li>• Learning history report;</li> <li>• OHS agreement;</li> <li>• OHS appointment letters;</li> <li>• Data Centre procedure documents</li> <li>• Incident reports;</li> <li>• Personal information for workmen's compensation;</li> <li>• Personal information of visitors to our premises and branches;</li> <li>• CCTV footage.</li> </ul>
Prevention and Combating of Corrupt Activities Act, 2004	<ul style="list-style-type: none"> <li>• ABC Policy;</li> <li>• Corrupt or fraudulent employee, client or merchant activities;</li> <li>• Reports on corrupt and fraudulent activities to law enforcement agencies;</li> <li>• Supplier Code of Ethics;</li> <li>• Tender awards.</li> </ul>
Promotion of Access to Information Act, 2000	<ul style="list-style-type: none"> <li>• The PAIA manual;</li> <li>• PAIA guide;</li> <li>• PAIA forms.</li> </ul>
Protection of Personal Information Act, 2013	<ul style="list-style-type: none"> <li>• Document Retention Policy;</li> <li>• Internal and External Privacy Policy;</li> <li>• Personal Information Sharing Policy;</li> <li>• Protection of Personal Information Policy;</li> <li>• Subject Access Request Policy;</li> </ul>



	<ul style="list-style-type: none"> <li>• Information Security Policy.</li> </ul>
Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002	<ul style="list-style-type: none"> <li>• Acceptable Use Policy;</li> <li>• Mobile Device Policy.</li> </ul>
Value Added Tax Act, 1991	<ul style="list-style-type: none"> <li>• Invoices;</li> <li>• Tax invoices;</li> <li>• Credit note;</li> <li>• Debit notes;</li> <li>• Bank statements;</li> <li>• Deposit slips; and</li> <li>• Stock lists.</li> </ul>

## 11. CATEGORIES OF RECORDS AVAILABLE UPON REQUEST

11.1. ENS maintains Records on the categories and subject matters listed below. Please note that Recording a category or subject matter in this Manual does not imply that a request for access to such Records would be granted. All requests for access will be evaluated on a case by case basis in accordance with the provisions of PAIA.

11.2. Please note further that many of the Records held by ENS are those of third parties, such as clients and Employees, and ENS takes the protection of third party confidential information very seriously. In particular, where ENS acts as professional advisors to clients, many of the Records held are confidential and others are the property of the client and not of ENS. For further information on the grounds of refusal of access to a Record please see paragraph 12.7 below. Requests for access to these Records will be considered very carefully. Please ensure that requests for such Records are carefully motivated.

Category of Records	Records
<p>Internal Records</p> <p>The Records listed pertain to ENS's own affairs</p>	<ul style="list-style-type: none"> <li>• Records relating to the incorporation of ENS's shareholders and director;</li> <li>• Financial Records;</li> <li>• Operational Records;</li> <li>• Intellectual property;</li> <li>• Marketing Records;</li> <li>• Internal correspondence;</li> <li>• Service Records;</li> <li>• Statutory Records;</li> <li>• Internal policies and procedures;</li> </ul>

	<ul style="list-style-type: none"> <li>• Minutes of meetings;</li> <li>• Insurance Records, including professional indemnity insurance in respect of ENS, group life assurance and disability income protection insurance;</li> <li>• The ENS provident fund Records and rules; and</li> <li>• Information technology, including computer software, support and maintenance Agreements.</li> </ul>
Employee Records	<ul style="list-style-type: none"> <li>• Any personal Records provided to ENS by its Employees;</li> <li>• Any Records a third party has provided to ENS about any of their Employees;</li> <li>• Conditions of employment and other Employee-related contractual and quasi legal Records;</li> <li>• Employment policies and procedures;</li> <li>• Internal evaluation</li> <li>• Disciplinary Records; and</li> <li>• Other internal Records and correspondence.</li> </ul>
Client-related Records	<ul style="list-style-type: none"> <li>• Contracts with the client and between the client and other persons;</li> <li>• Details of contracts, sales or leases clients enter into with ENS;</li> <li>• Details of transactions carried out with ENS;</li> <li>• Engagement letters</li> <li>• Files including pleadings, orders, judgments, and the like; n</li> <li>• Financial Records;</li> <li>• Indemnities and guarantees</li> <li>• Intellectual Property</li> <li>• Memoranda and letters;</li> <li>• MOIs;</li> <li>• Minutes of meetings;</li> <li>• Personal Information;</li> </ul>

	<ul style="list-style-type: none"> <li>• Records of correspondence or enquiries from Clients or anyone acting on Clients' behalf;</li> <li>• Special Personal Information, including biometric information, such as Images, fingerprints and voiceprints;</li> <li>• Trusts;</li> <li>• Wills; and</li> <li>• Other Records and correspondence.</li> </ul>
<p><b>Other Third Party Records</b></p> <p>Records are kept in respect of other parties, including without limitation joint ventures and consortia to which ENS is a party, contractors and sub-contractors, suppliers, service providers, and providers of information regarding general market conditions. In addition, such third parties may possess Records which can be said to belong to ENS.</p>	<ul style="list-style-type: none"> <li>• Employee, client, or ENS Records which are held by a third party as opposed to being held by ENS; and</li> <li>• Records held by ENS pertaining to third parties, including financial records, correspondence, contractual Records, Records provided by the other party, and Records third parties have provided about the contractors or suppliers.</li> </ul>
<p><b>Other Records</b></p>	<ul style="list-style-type: none"> <li>• Information relating to ENS; and</li> <li>• Research information belonging to ENS or carried out on behalf of a third party.</li> </ul>

## 12. REQUEST PROCEDURE

### 12.1. Access to a Record

- 12.1.1. If you are entitled to make a request for access to certain information under PAIA, the request procedure outlined below must be utilised.
- 12.1.2. POPIA provides that a Data Subject may, upon proof of identity, request ENS to confirm, free of charge, all the information it holds about the Data Subject and may request access to such information, including information about the identity of third parties who have or have had access to such information.
- 12.1.3. POPIA provides that a Data Subject may object, at any time, to the Processing of Personal Information by ENS, on reasonable grounds relating to his/her particular situation, unless legislation provides for such Processing. Any Data

Subject who wishes to object to the Processing of their Personal Information must complete the relevant form. Please refer to [PAIA Forms - Information Regulator \(inforegulator.org.za\)](https://inforegulator.org.za).

12.1.4. A Data Subject may also request ENS to 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 destroy or delete a Record of Personal Information about the Data Subject that ENS is no longer authorised to retain in terms of POPIA's retention and restriction of Records provisions. Any Data Subject who wishes to request a correction or deletion of Personal Information or the destruction or deletion of a Record of Personal Information must complete the relevant form. Please refer to [PAIA Forms - Information Regulator \(inforegulator.org.za\)](https://inforegulator.org.za).

12.2. Completion of the prescribed form:

12.2.1. Any request for access to a Record in terms of PAIA must substantially correspond with Form 2 to Government Notice No. R.757 dated 27 August 2021 promulgated under the PAIA Regulations (“**Form 2**”) and should be specific in terms of the record requested. Please refer to [PAIA Forms - Information Regulator \(inforegulator.org.za\)](https://inforegulator.org.za), to access the relevant form.

12.2.2. All Data Subject Access Request applications should be submitted or emailed to the Information Officer.

12.2.3. A request for access to information which does not comply with the formalities as prescribed by PAIA will be returned to the requester.

12.3. Proof of identity:

Proof of identity (as required under paragraph 1 of Form 2 Please refer to PAIA Forms - <https://inforegulator.org.za/paia-forms/>) is required to authenticate the Data Subject's identity and the request. The Data Subject will, in addition to this prescribed form, be required to submit acceptable proof of identity such as a certified copy where applicable of their identity document or other legal forms of identity.

12.4. Payment of the prescribed fees:

12.4.1. There are two categories of fees which are payable:

12.4.1.1. The request fee: R140.00 (one hundred and forty Rand)

- 12.4.1.2. The access fee: This is calculated by taking into account reproduction costs, search and preparation costs, as well as postal costs. these fees are set out in fees in respect of private bodies.
  - 12.4.2. Section 54 of PAIA entitles ENS to levy a charge or to request a fee to enable it to recover the cost of Processing a request and providing access to Records. The fees that may be charged are set out in Regulation 9(2)(c) promulgated under PAIA.
  - 12.4.3. Where a decision to grant a request has been taken, the Record will not be disclosed until the necessary fees have been paid in full.
- 12.5. Timelines for consideration of a request for access:
  - 12.5.1. Requests will be processed within 30 (thirty) days, unless the request contains considerations that are of such a nature that an extension of the time limit is needed.
  - 12.5.2. Should an extension be required, the requestor will be notified, together with reasons explaining why the extension is necessary.
- 12.6. Grounds for refusal of access and protection of information:
  - 12.6.1. There are various grounds upon which a request for access to a Record may be refused. These grounds include:
    - 12.6.1.1. the protection of Personal Information of a third party from unreasonable disclosure;
    - 12.6.1.2. the protection of commercial information of a third party (for example: trade secrets; financial, commercial, scientific or technical information that may harm the commercial or financial interests of a third party);
    - 12.6.1.3. If it is client-attorney privileged or confidential information. For example, any record subject to the relationship between an attorney and their client is protected under PAIA;
    - 12.6.1.4. if disclosure would result in the breach of a duty of confidence owed to a third party;
    - 12.6.1.5. if disclosure would jeopardise the safety of an individual or prejudice or impair certain property rights of a third person;

- 12.6.1.6. if the Record was produced during legal proceedings, unless that legal privilege has been waived;
  - 12.6.1.7. if the Record contains trade secrets, financial or sensitive information or any information that would put ENS at a disadvantage in negotiations or prejudice it in commercial competition; and/or
  - 12.6.1.8. if the Record contains information about research being carried out or about to be carried out on behalf of a third party or by ENS.
- 12.6.2. Section 70 of PAIA contains an overriding provision. Disclosure of a Record is compulsory if it would reveal (i) a substantial contravention of, or failure to comply with the law; or (ii) there is an imminent and serious public safety or environmental risk; and (iii) the public interest in the disclosure of the Record in question clearly outweighs the harm contemplated by its disclosure.
- 12.6.3. If the request for access to information affects a Third Party, then such Third Party must first be informed within 21 (twenty one) days of receipt of the request. The Third Party would then have a further 21 (twenty one) days to make representations and/or submissions regarding the granting of access to the Record.

### **13. REMEDIES AVAILABLE TO A REQUESTER ON REFUSAL OF ACCESS**

- 13.1. If the IO decides to grant access to the particular Record, such access must be granted within 30 (thirty) days of being informed of the decision unless that Record is held by a third party, in which case such access must be granted within 60 (sixty) days of the request being made.
- 13.2. The decision made by the IO after a request to access of information is final.
- 13.3. Where a third party is affected by the request for access and the IO has decided to grant access to the Record, the third party has 30 (thirty) days in which to appeal the decision in a court of competent jurisdiction. If no appeal has been lodged by the third party within 30 (thirty) days, access to the Record must be granted.

### **14. AVAILABILITY OF THIS MANUAL**

This Manual is available for inspection, free of charge, at the offices of ENS and on its website.