



PAIA MANUAL

1. DEFINITIONS

- 1.1. **"Agreement"** means a written agreement between ENSAfrica and a Third Party;
- 1.2. **"Client"** means any prospective, new or existing Client of ENSAfrica and its subsidiaries;
- 1.3. **"Data Subject/s"** for the purpose of this document include all living individuals and juristic persons about whom ENSAfrica 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/s"** means any person who works for or provides services to or on behalf of ENSAfrica and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting the business of ENSAfrica. This includes partners, directors, all permanent, temporary and part-time Employees as well as consultants, independent consultants, agency workers and contract workers;
- 1.6. **"ENSAfrica"** means ENSAfrica 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/s"**, **"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 ENSafrica in terms of section 56 of POPIA and who will have the ultimate responsibility to ensure that ENSafrica 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"** mean the Protection of Personal Information Act, 2013, including any regulations and/or code of conduct made under that Act;
- 1.12. **"Processing"** is 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/parties"** are the people 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. ENSafrica is the responsible party of all personal information used in its business.
- 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 ENSafrica'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.

3. ABOUT ENSAFRICA

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

4. CONTACT DETAILS OF THE IO

Email address of Information Officer: info@ENSafrica.com

Attention: The Information Officer

Postal address: Docex 152, Randburg and PO box 783347, Sandton

Street address: Tower 1, The MARC, 129 Rivonia Road, Sandown, Sandton, 2196

Phone number: +27 (11) 269 7600

5. INFORMATION REGULATORS GUIDE

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 Information Regulator in the manner prescribed. Any enquiries regarding the Guide should be directed to:

Postal Address: JD House
27 Stiemens Street
Braamfontein, Johannesburg

Telephone Number: +27 (0) 10 023 5207

Fax Number: 086 500 3351
E-mail Address: inforeg@justice.gov.za
Website: <https://www.justice.gov.za/inforeg/>

6. OBJECTIVES OF THIS MANUAL

The objectives of this Manual are:

- 6.1. to provide a list of all Records held by ENSafrica;
- 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 ENSafrica 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. Information that is obtainable via the ENSafrica website about ENSafrica is automatically available and need not be formally requested in terms of this Manual.

8.2. The following categories of Records are automatically available for inspection, purchase or photocopying:

- 8.2.1. brochures
- 8.2.2. press releases
- 8.2.3. publications; and
- 8.2.4. various other marketing and promotional material.

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 ENSafrica 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 ENSafrica's Privacy Policies for further information.

9.2. Categories of Personal Information collected by ENSafrica:

ENSafrica 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.

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 ENSafrica 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*, on-boarding 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:

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

- 9.4.1. Employee/s of ENSafrica;
- 9.4.2. Clients of ENSafrica; and

9.4.3. any Third Party with whom ENSafrica conducts business;

(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, ENSafrica 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, ENSafrica 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 ENSafrica operates.

9.6. Planned transborder flows of Personal Information:

9.6.1. If a Data Subject visits ENSafrica'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. ENSafrica may need to transfer a Data Subject's information to service providers in countries outside South Africa, in which case it will fully comply with applicable South African data protection legislation comprising POPIA and PAIA.

9.6.3. These countries may not have data protection laws which are similar to those of South Africa.

9.7. A general description of information security measures to be implemented by ENSafrica:

ENSafrica takes appropriate information security measures to ensure the confidentiality, integrity and availability of Personal Information in ENSafrica's possession. ENSafrica 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.

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

Information is available in terms of certain provisions of the following legislation as amended from time to time, to the persons or entities specified in such legislation:

- 10.1. Administration of Estates Act, 1965
- 10.2. Basic Conditions of Employment Act, 1997
- 10.3. Close Corporations Act, 1984
- 10.4. Companies Act, 2008
- 10.5. Compensation for Occupational Injuries and Health Diseases Act, 1993
- 10.6. Employment Equity Act, 1998
- 10.7. Estate Agency Affairs Act, 1976
- 10.8. Income Tax Act, 1962
- 10.9. Insolvency Act, 1936
- 10.10. Labour Relations Act, 1995
- 10.11. Occupational Health & Safety Act, 1993
- 10.12. Pension Funds Act, 1956
- 10.13. Skills Development Act, 1998
- 10.14. Skills Development Levies Act, 1999
- 10.15. Stock Exchanges Control Act, 1985 (and the rules and listing requirements of the JSE Securities Exchange authorised in terms thereof)
- 10.16. Unemployment Contributions Act, 2002
- 10.17. Unemployment Insurance Act, 1966
- 10.18. Value Added Tax Act, 1991

11. **CATEGORIES OF RECORDS AVAILABLE UPON REQUEST**

- 11.1. ENSafrica 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 ENSafrica are those of Third Parties, such as Clients and Employees, and ENSafrica takes the protection of Third Party confidential information very seriously. In particular, where ENSafrica acts as professional advisors to Clients, many of the Records held are confidential and others are the property of the Client and not of ENSafrica. 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 ENSafrica's own affairs</p> | <ul style="list-style-type: none"> • Records relating to the incorporation of ENSafrica's shareholders and director; • Financial Records; • Operational Records; • Intellectual property; • Marketing Records; • Internal correspondence; • Service Records; • Statutory Records; • Internal policies and procedures; • Minutes of meetings; • Insurance Records, including professional indemnity insurance in respect of ENSafrica, group life assurance and disability income protection insurance; • The ENSafrica provident fund Records and rules; and • Information technology, including computer software, support and maintenance Agreements. |
| <p>Employee Records</p> | <ul style="list-style-type: none"> • Any personal Records provided to ENSafrica by its Employees; • Any Records a Third Party has provided to ENSafrica about any of their Employees; • Conditions of employment and other Employee-related contractual and quasi legal Records; • Employment policies and procedures; |

| | |
|---|--|
| | <ul style="list-style-type: none"> • Internal evaluation • Disciplinary Records; and • Other internal Records and correspondence. |
| Client-related Records | <ul style="list-style-type: none"> • Contracts with the Client and between the Client and other persons; • Details of contracts, sales or leases you enter into with ENSafrica; • Details of transactions carried out with ENSafrica. • Engagement letters • Files including pleadings, orders, judgments, and the like • Financial Records • Indemnities and guarantees • Intellectual Property • Memoranda and letters • MOIs • Minutes of meetings • Personal Information • Records of correspondence or enquiries from you or anyone acting on your behalf; • sensitive or special categories of Personal Information, including biometric information, such as Images, fingerprints and voiceprints. • Special Personal Information • Trusts • Wills • Other Records and correspondence |
| <p>Other Third Party Records</p> <p>Records are kept in respect of other parties, including without limitation joint ventures and consortia to which ENSafrica is a party, contractors and sub-contractors, suppliers, service providers, and providers of information regarding general market conditions. In addition, such Third Parties may</p> | <ul style="list-style-type: none"> • Employee, Client, or ENSafrica Records which are held by a Third Party as opposed to being held by ENSafrica; and • Records held by ENSafrica 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. |

| | |
|---|--|
| possess Records which can be said to belong to ENSafrica. | |
| Other Records | <ul style="list-style-type: none"> • Information relating to ENSafrica; and • Research information belonging to ENSafrica or carried out on behalf of a Third Party. |

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 ENSafrica 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 ENSafrica, on reasonable grounds relating to his/her particular situation, unless legislation provides for such Processing.

12.1.4. A Data Subject may also request ENSafrica 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 ENSafrica is no longer authorised to retain in terms of POPIA's retention and restriction of Records provisions.

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 C of Government Notice No. R.187 dated 15 February 2002 and should be specific in terms of the Record requested.

12.2.2. Any request for access to a Record in terms of POPIA must substantially correspond to the Data Subject Access Request Form.

12.3. A Data Subject that wishes to:

12.3.1. object to the Processing of their Personal Information must complete Form 1; and

12.3.2. request a correction or deletion of Personal Information or the destruction or deletion of a Record of Personal Information must complete Form 2 and submit it to the IO.

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

12.4. Proof of identity:

Proof of identity 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 of their identity document or other legal forms of identity.

12.5. Payment of the prescribed fees:

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

12.5.1.1. The request fee: R50.00 (fifty rand)

12.5.1.2. 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.

12.5.2. Section 54 of PAIA entitles ENSafrica 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.

12.5.3. 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.

12.6. Timelines for consideration of a request for access:

12.6.1. 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.

12.6.2. Should an extension be required, you will be notified, together with reasons explaining why the extension is necessary.

12.7. Grounds for refusal of access and protection of information:

12.7.1. There are various grounds upon which a request for access to a Record may be refused. These grounds include:

12.7.1.1. the protection of Personal Information of a Third Party from unreasonable disclosure;

- 12.7.1.2. 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);
 - 12.7.1.3. 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;
 - 12.7.1.4. if disclosure would result in the breach of a duty of confidence owed to a Third Party;
 - 12.7.1.5. if disclosure would jeopardise the safety of an individual or prejudice or impair certain property rights of a third person;
 - 12.7.1.6. if the Record was produced during legal proceedings, unless that legal privilege has been waived;
 - 12.7.1.7. if the Record contains trade secrets, financial or sensitive information or any information that would put ENSafrica at a disadvantage in negotiations or prejudice it in commercial competition; and/or
 - 12.7.1.8. if the Record contains information about research being carried out or about to be carried out on behalf of a Third Party or by ENSafrica.
- 12.7.2. 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.
- 12.7.3. 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. However, in the event that you are not satisfied with the outcome of the request, you are encouraged to engage ENSafrica's senior management with a view to resolving the matter.

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 ENSafrica and on its website.

Signature: _____
who warrants that he / she is duly authorised thereto

Name: _____

Date: _____

Place: _____

Witness: _____

Witness: _____

Signature: _____
who warrants that he / she is duly authorised thereto

Name: _____

Date: _____

Place: _____

Witness: _____

Witness: _____