

PAIA and POPI Manual

of



South African Institute of Auctioneers

“the Private Body”

This manual was prepared in accordance with Section 51 of the Promotion of Access to Information Act, 2000 (“PAIA”) and it further includes the requirements as set out in the Protection of Personal Information Act 2013 (“POPI”)

1. Scope

The scope of this PAIA and POPI manual relates to the personal information records held by the Private Body and the process that should be followed to request access to such records by data subjects.

2. Availability of the manual

A copy of this manual is available on request from the information officer via email sonja.styger@auctioneering.co.za

It is also available at <https://www.auctioneering.co.za/>

3. Private body details

Name of Private Body: South African Institute of Auctioneers

Head of the Private Body:

Information Officer: Sonja Styger

Physical address: 10 Evelyn Road, Retreat, Cape Town.

Postal address: 10 Evelyn Road, Retreat, Cape Town.

Telephone number: 021 813 6342

Email address: sonja.styger@auctioneering.co.za

4. Availability of guides to PAIA and POPI

A guide to PAIA and POPI Act can be requested and obtained from the Information Regulator. All enquiries regarding the guide and its contents should be directed to:

PAIA & POPI Act

The Information Regulator

JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001

P.O Box 31533, Braaifontein, Johannesburg, 2017

Complaints email: complaints.IR@justice.gov.za

General enquiries email:

infoereg@justice.gov.za

5. Categories of Records Held by the Private Body

Company records

- Incorporation information
- Name of directors
- Director's remuneration
- Information relating to the appointment/retirement/removal/resignation of directors/ auditors/ public officers

Financial records

- Financial statements
- Accounting records
- Documents relating to tax obligations

Agreements

- Contracts entered with Member
- Supplier Contracts
- Third party Contracts (Service Level Agreements)

Employees

- Personal information of employees
- Employee contracts
- Salaries and paysheets of employees
- Leave records

Policies

- Internal policies relating to employees and the private body
- External policies relating to customer and other third parties

Members

- Member personal information details and documentation
- Member company details
- Member representative contact details
- Correspondence with Members
- Username and passwords to websites and/or back ends

Information Technology

- Hardware and software packages
- Operating systems
- Licences
- Agreements & Policies

Marketing

- Member information

6. Applicable legislation in relation to the Private Body

- Basic Conditions of Employment Act, 75 of 1997;
- Labour Relations Act, 66 of 1995;
- Occupational Health and Safety Act, 85 of 1993;
- Unemployment Insurance Act, 63 of 2001;
- Companies Act, 71 of 2008;
- Electronic Communications and Transactions Act, 25 of 2002;
- Income Tax Act, 58 of 1962;
- Value Added Tax Act, 89 of 1991;
- Promotion of Access to Information Act, 2 of 2000;
- Consumer Protection Act 68 of 2009;
- Constitution of South Africa Act 108 of 1996;
- The Promotion of Personal Information Act 4 of 2013.

7. Eight conditions to lawfully process personal information in terms of POPI

The Private Body commits to implement the eight conditions to lawfully process personal information as set out in the Protection of Personal Information Act.

- **Accountability**

The Private Body undertakes to ensure that there is compliance with POPI in terms of lawfully processing personal information.

- **Processing limitation**

The Private Body will only collect personal information for a specific purpose, if the following circumstances exist:

- The data subject has consent to the processing
- Processing is necessary for the conclusion or performance of a contract with the data subject.
- Processing complies with a legal obligation imposed by law/ legislation
- Processing protects a legitimate interest of the data subject
- Processing is necessary in the pursuance of a legitimate interest of the Private Body, or a third party to whom the information is supplied.

Special personal information includes:

- Religious, philosophical, or political beliefs.
- Race or ethnic origin.
- Trade union membership.
- Health or sex life
- Biometric information
- Criminal behaviour
- Information relating to children

The Private Body will only process special personal information under the following circumstances:

- The data subject has consent to such processing.
- The special personal information was intentionally made public by the data subject.
- Processing is necessary for the establishment of a right or defence in law
- Processing is for historical, statistical, or research reasons.
- If the processing of race or ethnic origin will be processed in terms of the affirmative action laws.

All the data subjects have the right to refuse or withdraw their consent at any stage of the personal information processing life cycle. A data subject may object, at any time, to the processing of their personal information on any of the above grounds unless legislation permits for such processing to take place. If the data subject withdraws consent or objects to their personal information from being processed, then the Private Body shall refrain from processing the personal information.

Collection directly from the data subject, personal information must be collected directly from the data subject, unless:

- The personal information is contained in a public record
- The personal information has been intentionally made public by the data subject
- Collecting the personal information from another source with the data subject's consent
- Collecting the personal information from another source is necessary to maintain, comply with or exercise any law or legal right.
- Collecting the personal information would prejudice the lawful purpose of collection.
- Collecting from the data subject is not reasonably practical.

Purpose specification

The Private Body shall only process personal information for a specific purpose as communicated to the data subject.

Further processing

Any new processing activity must be compatible with the original purpose of processing. Further processing will be regarded as compatible with the purpose of collection if:

- The data subject has consented to the further processing.
- The personal information is contained in a public record.
- The personal information is intentionally made public by the data subject.
- The further processing is necessary to maintain, comply with or exercise any law or legal right.
- The further processing is necessary to prevent or mitigate a threat to public health or safety, or the life or health of the data subject or a third party.

Information Quality

The Private Body shall take reasonable steps to ensure that the personal information is complete, accurate, not misleading and updated. The Private Body shall periodically review data subject records to ensure that the personal information is still valid and correct.

When collecting personal information, the following guidelines should be followed:

- Personal information should be dated when received.
- A record should be kept of where the personal information was obtained.
- Should personal information records be changed for whatever reason, such changes should be dated.
- Irrelevant/ Excessive personal information should be deleted or destroyed.
- Personal information should be stored securely, either on a secure electronic database or in a secure physical filing system.

Openness

The Private Body shall take reasonable steps to ensure that the data subject is made aware of:

- What personal information is collected, and the source of information.
- The purpose of collection and processing.
- Where the supply of personal information
- Whether the collection is in terms of any law requiring such collection.
- Whether the personal information shall be shared with any third party.

Data Subject Participation

Data subject has the right to request access to, amendment, or deletion of their personal information.

All such requests must be submitted in writing to the information Officer, unless there are grounds for refusal as set out below. The Private Body shall disclose the requested personal information:

- On receipt of adequate proof of identity from the data subject, or requester.
- Within a reasonable time.
- On receipt of the prescribed fee, if any.
- In a reasonable format.

The Private Body shall not disclose any personal information to any party unless the identity of the requester has been verified.

Security Safeguards

The Private Body shall ensure the integrity and protection of all personal information in its possession by taking reasonable steps to:

- Identify all reasonable security risks.
- Establish and maintain appropriate safeguards against the risks.

Cross Border Personal Information Transfers

Personal information may only be transferred outside of South Africa on the following grounds:

- If the recipient country can offer an adequate level of protection. This means that the recipient country's data privacy laws must be substantially like the conditions for lawful processing as set out in POPI.
- If the data subject consents to the transfer of their personal information.
- If the transfer is necessary for the performance of a contractual obligation between the responsible party and third party, or
- If the transfer is necessary for the performance of a contractual obligation between responsible party and a third party, in the interests of the data subject.
- If the transfer is for the benefit of the data subject, and it is not reasonably practicable to obtain the consent of the data subject, and if it were, the data subject, would likely provide such consent.

The Private body does do cross-border transfers of personal information relating to employees, clients and other third parties as they have admin offices based in the United Kingdom.

8. Access to records

The Personal information records can be accessed on request once all the requirements to gain access have been met. A requester may apply for access to a record held by the Private body by following the process as set out below.

According to the PAIA Act a personal requester is defined as:

A requester who is seeking access to a record containing personal information about the requester. Subject to the provisions of the Act and applicable law, the Private body will provide the requested information, or give access to any record regarding the requester's personal information. The prescribed fee for reproduction of the information requested will be charged by the Private body.

Other Requester as defined (other than a personal requester) is entitled to request access to information pertaining to third parties. However, the Private body is not obliged to grant access prior to the requester fulfilling the requirements for access in terms of the Act. The prescribed fee for reproduction of the information requested will be charged by the Private body.

A requester must comply with all the procedural requirements as set out in the PAIA Act in respect of a request for access to a record. A requester must complete the Request Form hereto attached marked as Annexure A and submit it together with the payment of the request fee (if applicable) to the Information Officer at the physical address, or electronic mail address as stated herein.

The prescribed form must be completed with enough detail to enable the Information Officer to identify:

- The record or records requested.
- The identity of the requester.
- What form of access is required; and
- The postal address or email address of the requester.

A requester must state that he or she requires the information to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. The requester must also provide an explanation of why the requested record is required for the exercise or protection of that right.

The Private Body will process a request within 30 days, unless the requestor has stated special reasons which would satisfy the Information Officer that circumstances dictate that this time not be complied with. The requester shall be informed in writing whether access has been granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he or she must state the manner and the particulars so required. If a request is made on behalf of another person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the Information Officer.

If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally to the Information Officer.

Decision

The Private Body will, within 30 days of receipt of a request, decide whether to grant or reject a request and give written notice with reasons (if required). The 30-day period within which the Private Body must decide whether to grant or refuse a request, may be extended for a further period of not more than 30 days if the request is for a large quantity of information, or the request requires a search for information held at another location and the information cannot reasonably be obtained within the original 30-day period. The Information Officer will notify the requester in writing should an extension be necessary.

Fees

The Act provides for two types of fees: A request fee, (which will be a standard fee) and an access fee, which must be calculated by considering reproduction costs, search and preparation time and cost, as well as postal costs where applicable. When a request is received by the Information Officer of the Private Body, the Information Officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any) before further processing of the request. If a search for the record is necessary and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Information Officer shall notify the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted. The Information Officer shall withhold a record until the requester has paid the fee or fees as indicated. A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required more than the prescribed hours to search for and prepare the record for disclosure including deciding to make it available in the request form. If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer shall repay the deposit to the requester.

Internal Remedies

The Private Body does not have internal appeal procedures. As such, the decision made by the Information Officer pertaining to a request is final, and requestors will have to exercise such external remedies at their disposal if a request is refused, and the requestor is not satisfied with the response provided by the Information Officer.

External Remedies

A requestor that is dissatisfied with the information officer's refusal to disclose information, may within 30 days of notification of the decision, apply to a court for relief. Likewise, a third party dissatisfied with the Information Officer's decision to grant a request for information, may within 30 days of notification of the decision, apply to the High Court for relief.

9. Request for correction, deletion or destroying of records

- Data subjects who wish to request a correction or deletion of personal information or the destruction of a record of personal information in terms of section 24(1) of the Act, must submit a request to the Private Body on the Request for Correction, Deletion or Destroying of Records Form hereto attached as Annexure.

ANNEXURE A

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:

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
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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 for 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:			
	copy of record*		inspection of record
2. If record consists of visual images this includes photographs, slides, video recordings, computer-generated images, sketches, etc)			
	view the images	copy of the images"	transcription of the images*

3. If record consists of recorded words or information which can be reproduced in sound:					
listen to the soundtrack audio cassette		transcription of soundtrack* written or printed document			
4. If record is held on computer or in an electronic or machine-readable form:					
printed copy of record*		printed copy of information derived from the record"	copy in computer readable form* (stiffy or compact disc)		
'If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.			<table border="1"> <tr> <td>YES</td> <td>NO</td> </tr> </table>	YES	NO
YES	NO				

G Particulars of right to be exercised or protected

If the provided space is inadequate, please continue 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 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 at..... this.....day of20__

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

ANNEXURE B

**REQUEST FOR CORRECTION OR DELETION OR DESTROYING 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]**

Details of the person requesting Amendment, Correction or Erasure	
Full Name	
Address	
Date of Birth	
E-mail Address	
Phone Number	

Your Role	
<input type="checkbox"/>	I am the data subject
<input type="checkbox"/>	I am not the data subject, though I am acting on behalf of the data subject by virtue of a power of attorney
<input type="checkbox"/>	I am not the data subject, but I am acting on behalf of a data subject as its parent or legal guardian.

Proof of Identity and Authority Submitted	
<input type="checkbox"/>	Driving License
<input type="checkbox"/>	Passport
<input type="checkbox"/>	Identity Document
<input type="checkbox"/>	Power of Attorney
<input type="checkbox"/>	Evidence of parental responsibility or legal guardianship

Amendment	
<input type="checkbox"/>	I wish to amend my personal information (proof of identity must be provided).
<input type="checkbox"/>	I wish to amend personal information concerning a data subject that I am acting on behalf of (proof of identity of the representative, a power of attorney and proof of identity of the data subject must be provided).
<input type="checkbox"/>	I wish to amend personal information concerning a data subject to whom I am a parent or legal guardian (proof of identity and evidence of parental responsibility or legal guardianship must be provided).
Type of personal data you wish to amend:	
Describe the amendment:	

Correction	
<input type="checkbox"/>	I wish to correct my personal information (proof of identity must be provided).
<input type="checkbox"/>	I wish to correct personal information concerning a data subject that I am acting on behalf of (proof of identity of the representative, a power of attorney and proof of identity of the data subject must be provided).
<input type="checkbox"/>	I wish to correct personal information concerning a data subject to whom I am a parent or legal guardian (proof of identity and evidence of parental responsibility or legal guardianship must be provided).
Type of personal data you wish to correct:	
Describe the correction:	

Erasure	
<input type="checkbox"/>	I wish to erase my personal information (proof of identity must be provided).
<input type="checkbox"/>	I wish to erase personal information concerning a data subject that I am acting on behalf of (proof of identity of the representative, a power of attorney and proof of identity of the data subject must be provided).
<input type="checkbox"/>	I wish to erase personal information concerning a data subject to whom I am a parent or legal guardian (proof of identity and evidence of parental responsibility or legal guardianship must be provided).
Describe the type of personal data you wish to erase:	

By signing this form, you certify that the information you have provided is correct to the best of your knowledge and that you are the person to whom it relates or that you are legally entitled to act on behalf of such person. You understand that it may be necessary to obtain further information to comply with this request.

Signature: _____

Date: _____