



## **PAIA MANUAL**

**for**

**BRAND *et al* (Pty) Ltd**

**REGISTRATION NUMBER: 2004/035928/07**

**Third Edition: June 2021**

This PAIA Manual (hereinafter referred to as “the Manual”) has been prepared in terms of Section 51 of the Promotion of Access to Information Act No. 2 of 2000 (hereinafter referred to as “PAIA”), with careful consideration of the provisions of the Protection of Personal Information Act No. 4 of 2013 (hereinafter referred to as “POPIA”).

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## 1. INTRODUCTION

The Bill of Rights in Chapter 2 of the Constitution of the Republic of South Africa, Act 108 of 1996 (hereinafter referred to as “the Constitution”) define the rights of the people and provide to whom, and how the rights apply, and also regulate when and how the rights may be limited.

Section 14 of the Constitution protects the right to privacy, and the Protection of Personal Information, Act 4 of 2013 is the primary instrument used to regulate data protection in South Africa.

In order to empower the people of South Africa to fully exercise and protect all of their rights, and specifically the right to privacy as provided for in Section 32(1) of the Constitution; the Promotion of Access to Information Act No. 2 of 2000 actively enables access to records and/ or information held by a governmental body and/ or any information held by another person (juristic or natural in nature).

In other words, by accessing the information held by another person (juristic or natural in nature) each person can protect their privacy by managing what Personal Information is shared and how it is processed.

## 2. INTERPRETATION

2.1. In this Manual, words shall be interpreted as defined in the Promotion of Access to Information Act No. 2 of 2000.

2.2. For ease of reference only, **BRAND et al** includes the following definitions contained in the abovementioned legislation:

2.2.1. “Personal Requester” means a natural person requesting access to a Record which contains personal information about himself or herself;

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

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

2.2.2.2. information relating to the education or the medical, financial, criminal or employment history of the person;

2.2.2.3. any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier, or other particular assignment to the person;

2.2.2.4. the biometric information of the person;

2.2.2.5. the personal opinions, views, or preferences of the person;

2.2.2.6. correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;

2.2.2.7. the views or opinions of another individual about the person; and

2.2.2.8. the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;

2.2.3. “Record” means any recorded information, in any form or medium in possession of the **BRAND et al**; and

2.2.4. “Requester” means any person requesting access to a record held by the **BRAND et al**.

### 3. PURPOSE OF THE MANUAL

3.1. This Manual provides a description of Records held by the **BRAND et al**, and the purpose for which personal information is processed.

3.2. It furthermore provides guidance as to the procedure for requesting access to such Records, and how such a request for access should be dealt with by the **BRAND et al**.

3.3. Although **BRAND et al** acknowledges the Requester’s right (whether Private or not), to have access to records kept by **BRAND et al**, the aforesaid access shall be strictly limited by prudent application of the provisions of POPIA. **BRAND et al** implements extensive security measures to ensure the confidentiality and integrity of Personal Information in its possession.

3.4. The Manual also contains the list of grounds upon which **BRAND et al** may rely in refusing access to a Record held by same.

#### 4. GUIDE ON THE APPLICATION OF PAIA

- 4.1. The South African Human Rights Commission (hereinafter referred to as “the SAHRC”) has, in terms Section 10 of PAIA, compiled a guide providing information to members of the public who wish to exercise their right of access to information, on how to use PAIA, and the guide is available in all the official South African languages at various public information centres as prescribed in terms of PAIA.
- 4.2. The aforementioned guide can also be accessed through the SAHRC’s website on [www.sahrc.org.za](http://www.sahrc.org.za), or queries can be directed to:

The South African Human Rights Commission: PAIA Unit The Research and Documentation Department	
Postal address:	Private Bag 2700
Physical address:	Braampark Forum 3 Hoofd Street Braamfontein Johannesburg
Telephone:	+27 11 877 3622
Website:	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>
E-mail:	<a href="mailto:PAIA@sahrc.org.za">PAIA@sahrc.org.za</a> <a href="mailto:info@sahrc.org.za">info@sahrc.org.za</a>

#### 5. RECORDS KEPT IN TERMS OF LEGISLATION APPLICABLE TO BRAND ET AL

- 5.1. **BRAND et al** keeps records as required by the following legislation:

- 5.1.1. Labour Relations Act (Act no. 66 of 1995)
- 5.1.2. Basic Conditions of Employment Act (Act no. 75 of 1997)
- 5.1.3. Employment Equity Act (Act no. 55 of 1998)

- 5.1.4. Unemployment Insurance Contributions Act (Act no. 4 of 2002)
- 5.1.5. Unemployment Insurance Act (Act no. 63 of 2001)
- 5.1.6. Skills Development Levies Act (Act no. 9 of 1999)
- 5.1.7. Skills Development Act (Act no. 97 of 1998)
- 5.1.8. Compensation for Occupational Injuries and Diseases Act (Act no. 130 of 1993)
- 5.1.9. Occupational Health and Safety Act (Act no. 85 of 1993)
- 5.1.10. Companies Act (Act no. 71 of 2008)
- 5.1.11. Income Tax Act (Act no. 95 of 1967)
- 5.1.12. Value Added Tax Act (Act No. 89 of 1991)
- 5.1.13. Long Term Insurance Act (Act no. 52 of 1998)
- 5.1.14. Short Term Insurance Act (Act no. 53 of 1998)
- 5.1.15. Copyright Act (Act no. 98 of 1978)
- 5.1.16. Trade Marks Act (Act no. 194 of 1993)
- 5.1.17. National Credit Act (Act no. 34 of 2005)
- 5.1.18. Electronic Communications and Transactions Act (Act no. 25 of 2002)
- 5.1.19. Intellectual Property Laws Amendment Act (Act no. 28 of 2013)

## 6. CATEGORISATION OF RECORDS

6.1. The Records kept by the **BRAND et al** are categorised as follows:

6.1.1. Administration and Management:

6.1.1.1. Company Records;

6.1.1.2. Statutory Records;

6.1.1.3. **BRAND et al** policies and procedures;

6.1.1.4. Minutes of internal meetings;

6.1.1.5. Risk insurance and insurance Records; and

6.1.1.6. Commercial contracts.

6.1.2. Financial Records:

6.1.2.1. Annual financial statements;

6.1.2.2. Asset Registers;

6.1.2.3. Auditor's reports;

6.1.2.4. Banking records;

6.1.2.5. Creditors and debtors' Records;

6.1.2.6. Invoices and statements; and

6.1.2.7. Tax Returns.

6.1.3. Operational Records:

6.1.3.1. PAYE Records;

6.1.3.2. Documents issued to employees for income tax purposes;

6.1.3.3. Records of payment made to SARS on behalf of employees;

6.1.3.4. VAT Records;

6.1.3.5. Skills development levies;

6.1.3.6. Records of Unemployment Insurance Fund contributions;

6.1.3.7. Workmen's compensation Records; and

6.1.3.8. Service Level Agreements.

6.1.4. Employee Records:

6.1.4.1. List of Employees;

6.1.4.2. Appointment Records and employment contracts;

- 6.1.4.3. Payroll Records;
- 6.1.4.4. Health and safety records;
- 6.1.4.5. Internal policies and administrative forms;
- 6.1.4.6. Training schedules; and
- 6.1.4.7. Personnel Records including personal details, disciplinary records, performance and assessment Records.

6.1.5. Information Technology:

- 6.1.5.1. Computer software;
- 6.1.5.2. User statistics; and
- 6.1.5.3. Software licenses.

6.1.6. Records pertaining to clients:

- 6.1.6.1. Limited Personal Information which is required to perform services to the client;
- 6.1.6.2. Client's historical interaction with **BRAND et al**; and
- 6.1.6.3. Client's marketing preferences regarding products and services.

## 7. INFORMATION OFFICER

- 7.1. The responsibility for the administration of, and compliance with, the provisions of PAIA and POPIA have been delegated by the Chief Executive Officer of the **BRAND et al** to its Information Officer.
- 7.2. A Requester who wishes to acquire further information in regard to the use of this Manual and/or procedure to be followed to obtain access to a Record, may direct enquiries to the Information Officer at the following contact details:



Chief Executive Officer:	Dr. P.C. Van der Westhuizen
Information Officer:	Chrisna-Mari Els
Postal address:	PO Box 2931 Faerie Glen 0043
Physical address:	Boardwalk Office Park c/o Solomon Mahlangu & Haymeadow Faerie Glen Pretoria
Website:	<a href="http://www.etal.co.za">http://www.etal.co.za</a>
Telephone:	(012) 991 7810
E-mail:	chrisna-mari@etal.co.za

## 8. PROCESSING OF PERSONAL INFORMATION

- 8.1. In terms of POPIA, Personal Information may only be processed for a specific purpose.
- 8.2. **BRAND et al** may process Personal Information as part of its internal commercial administration which includes employee administration and compliance with tax laws and any other applicable legislative and regulatory requirements.
- 8.3. Furthermore, **BRAND et al** processes Personal Information of clients when rendering services to same which includes details of clients' accounts.
- 8.4. **BRAND et al** explicitly discloses the purpose for processing of Personal Information at the time the Personal Information is collected, and only proceeds with the processing thereof once consent has been given by the person whose Personal Information is collected.
- 8.5. **BRAND et al** may process Personal Information and retain Records relating to natural or juristic persons who fall within the following non-exhaustive categories:

- 8.5.1. Contracted service providers;
- 8.5.2. Clients;
- 8.5.3. Suppliers;
- 8.5.4. Employees;
- 8.5.5. Directors; and
- 8.5.6. Any third party with whom **BRAND et al** conducts business.

8.6. **BRAND et al** may supply Personal Information to the following recipients:

- 8.6.1. Statutory oversight bodies, regulators or judicial commissions of enquiry making a request for the Records;
- 8.6.2. Any court, administrative or judicial forum, arbitration, statutory commission, or ombudsman making a request therefor in terms of the applicable rules;
- 8.6.3. The South African Revenue Services, or another similar authority;
- 8.6.4. Third parties with whom **BRAND et al** have a contractual relationship for the capturing, organising, storage and/or retention and archiving of data; and
- 8.6.5. Anyone making a successful application for access in terms of PAIA.

8.7. Subject to the provisions of POPIA and the National Credit Act (Act no. 34 of 2005), **BRAND et al** may share information about a client's creditworthiness with any credit bureau or credit provider's industry association or other association for an industry in which **BRAND et al** operates.

8.8. **BRAND et al** may only transfer Personal Information of a client (whether a natural or juristic person) to a third party domiciled in a foreign country for the purpose of rendering certain commercial services to that client, if the recipient of the Personal Information is subject to a law, binding corporate rules or binding agreement which provide an adequate level of protection that effectively upholds the principles for processing of the information that are substantially similar to the conditions for the lawful processing of Personal Information in South Africa. This transfer remains subject in the first instance to the client's consent to transfer the information. In addition hereto, the transfer must be necessary for the performance in terms of a contract concluded in the interest of the client between **BRAND et al** and a third party.

## 9. SUBMITTING A REQUEST FOR ACCESS TO A RECORD

- 9.1. A request for access to any of the Records held by **BRAND et al** in terms of Section 50 of PAIA must be made in writing by completing the form contained in the Regulations regarding the Promotion of Access to Information, 2002 (Form C).
- 9.2. A copy of the form is attached as Annexure A to this Manual. The request must be made to the Information Officer at the address, or email address, specified in this Manual.
- 9.3. A Requester must pay the prescribed fee before processing of the request will take place.
- 9.4. The requester must provide sufficient detail on the prescribed form to allow **BRAND et al** to identify the Record or Records which have been requested and to identify the Requester. If a request is made on behalf of another person or entity, the Requester must submit details and proof of the capacity in which the requester is making the request, which must be reasonably satisfactory to **BRAND et al**. The Requester is also required to indicate the form of access to the relevant record that is required, and to provide his, her or its contact details in the Republic of South Africa.
- 9.5. The Requester is required to identify the right he, she or it is seeking to exercise or protect by accessing records held by **BRAND et al** and to explain why the particular record or records requested is or are required for the exercise or protection of that right.
- 9.6. **BRAND et al** may, and must in certain instances, refuse access to records on any of the grounds set out in Chapter 4 of Part 3 of PAIA which includes that access would result in the unreasonable disclosure of Personal Information about a third party.
- 9.7. **BRAND et al** is required to inform a Requester in writing of its decision in relation to a request.
- 9.8. **BRAND et al** will make a decision in relation to a request for access to records within 30 (thirty) days of receipt of the request, unless third parties are required to be notified of the request or the thirty-day period is extended as provided for in PAIA and will notify the Requester accordingly.
- 9.9. A Requester aggrieved by the Information Officer's decision either to refuse a request for access, a decision regarding the payment of an access fee, or a decision regarding the form of access to be granted, may submit a complaint to the Information Regulator of South Africa within 30 (thirty) days after the date of the decision by **BRAND et al's** Information Officer. Further information about the aforesaid Information Regulator can be obtained from <https://www.informationcommissioners.org/south-africa>.

## **10. FEES**

- 10.1. The request fee payable by a Requester, other than a Personal Requester, is R50.00 (fifty rand).
- 10.2. The Information Officer will notify the Requester in writing, to pay the prescribed fee (if any) before further processing the request.
- 10.3. The access fee payable for searching for the Record for disclosure is R30.00 (thirty rand) for each hour or part of an hour reasonably required for such search.
- 10.4. If the Information Officer is of the opinion that 6 (six) hours will be exceeded to search, reproduce and or prepare the information requested, a deposit is payable equal to one third of the access fee referred to in paragraph 10.3 above.

## **11. INFORMATION OR RECORDS NOT FOUND**

- 11.1. If all reasonable steps have been taken to find a Record and such a Record cannot be found or if the Records sought do not exist, then the Information Officer shall inform the Requester, by way of an affidavit or affirmation, that it is not possible to give access to the Record requested.
- 11.2. The affidavit or affirmation shall provide a full account of all steps taken to find the Record or to determine the existence thereof, including the details of all communications by the Information Officer with the persons who conducted the search.
- 11.3. If the Record in question is to be found at a later stage, the Requester shall be given access to the Record in the manner stipulated by the Requester in the prescribed form unless access is refused by the Information Officer.

## **12. GROUNDS FOR REFUSAL OF ACCESS**

- 12.1. Mandatory protection of privacy of third party who is a natural person, including a deceased individual.
- 12.2. Mandatory protection of commercial information of third party.
- 12.3. Mandatory protection of certain confidential information and protection of certain confidential information of a third party.
- 12.4. Mandatory protection of safety of individuals, and protection of property.

- 12.5. Mandatory protection of Records privileged from production in legal proceedings.
- 12.6. Economic interests and commercial activities of **BRAND et al.**
- 12.7. Mandatory protection of research information of a third party, and protection of research information of **BRAND et al.**
- 12.8. Operations of **BRAND et al.**
- 12.9. Manifestly frivolous or vexatious requests, or substantial and unreasonable diversion of resources of **BRAND et al.**

### **13. AMENDMENT AND UPDATING OF MANUAL**

- 13.1. This Manual shall be annually revised and updated if necessary or at such intervals as may be prescribed amendments to legislation.
- 13.2. As and when amendments are affected, the latest version of the Manual will be made public.

### **14. AVAILABILITY OF THE MANUAL**

- 14.1. This Manual is available for inspection at the offices of **BRAND et al.**, located at Boardwalk Office Park, corner of Solomon Mahlangu Road and Haymeadow Street, Faerie Glen, Pretoria, free of charge.
- 14.2. Copies of the Manual may be obtained, subject to the payment of the prescribed fees in paragraph 10, at the offices of **BRAND et al.**
- 14.3. The Manual can also be accessed online at <http://www.etal.co.za>.

## FORM C

Request for Access to a Record of/ or held by a Private Body

Section 53 (1) of the Promotion of Access to the information Act 2 of 2000 – Regulation 10

<b>A. Particulars of private body</b>	
Company Name and Registration number:	
The Managing Director:	
<b>B. Particulars of person requesting access to the record</b>	
<p>a. The particulars of the person who requests access to the record must be given below.</p> <p>b. The physical address and/ or email address to which the information is to be sent must be given.</p> <p>c. Proof of the capacity in which the request is made, if applicable, must be attached.</p>	
Full name and surname:	
Identity number:	
Postal address:	
Telephone number:	
E-mail address:	
Capacity in which request is made, when made on behalf of another person:	
<b>C. Particulars of person on whose behalf request is made</b>	
This section must be completed ONLY if a request for information is made on behalf of another person.	

Full name and surname:	
Identity number:	
<b>D. Particulars of Record</b>	
<p>a. Provide full particulars of the Record</p> <p>b. If the provided space is inadequate, please continue on a separate folio and attach it to this form. <b>The Requester must sign all the additional folios.</b></p>	
1. Description of Record or relevant part of the Record:	
2. Reference number if available:	
3. Any further particulars of Record:	
<b>E. Fees</b>	
<p>a. A request for access to a Record, other than a Record containing Personal information about yourself, will be processed only after a <b>request fee</b> has been paid.</p> <p>b. You will be notified of the amount required to be paid as the request fee.</p> <p>c. The <b>fee payable for access</b> to a Record depends on the form in which access is required and the reasonable time required to search for and prepare a Record.</p> <p>d. If you qualify for exemption to the payment of any fee, please state the reason for exemption.</p>	
Reason for exemption from payment of fees:	
<b>F. Form of access to Record</b>	
If you are prevented by a disability to read, view or listen to the Record in the form of	

access provided for in 1 to 4 hereunder, state your disability and indicate in which form the Record is required.

Disability:

Form in which Record is required:

Mark the appropriate box with an **X**.

NOTES:

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

1. If the Record is written or in printed form:

\*Copy of Record

Inspection of Record

2. If the Record consists of visual images (this includes photographs, slides, video recording, computer-generated images, sketches, etc.)

View the images

Copy of the images\*

Transcription of the images\*

3. If the 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 the 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\* (CD or DVD)



*If you requested a copy or transcription of a Record (above), do you wish the copy or transcription to be posted to you? Postage payable	YES	NO
--	-----	----

**G. Particulars of right to be exercised or protected**

If the provided space is inadequate, please continue on a separate folio and attach it to this form. The Requester must sign all the additional folios.

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

2. Explain why the Record requested is required for the exercise or protection of the aforementioned right:

**H. Notice of decision regarding request for access**

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

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

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Signature of Requester/ person on whose behalf request is made.