

SWART Group section 51 manual in terms of Promotion of Access to Information Act

Version	1.0
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Approved by	Dérick Swart

1. Key contacts

Information Officer	Dérick Swart	derick@swart.law
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2. About this PAIA manual

- 2.1. This is the PAIA manual (herein "**Manual**") is published by each member of the SWART group of companies (herein collectively "**SWART Group**"). The members of the group consist of the entities set out at <https://www.swart.law/contact.aspx> from time to time.
- 2.2. The SWART Group acknowledges values the data privacy rights and your right of access to information. The aim of this Manual is to give effect to these rights, in accordance with section 51 of the Promotion of Access to Information Act No. 2 of 2000 (herein "**PAIA**").
- 2.3. We may update this manual from time to time by publishing a revised version on www.swart.law (herein "**Website**"), which shall take effect on the date of publication.

3. Definitions

- 3.1. In this Manual, the following terms (as capitalised), shall have the meanings assigned below:
 - 3.1.1. "**Information Regulator**" means the independent body established in terms of section 39 of the Protection of Personal Information Act 4 of 2013;
 - 3.1.2. "**POPIA**" means the Protection of Personal Information Act 4 of 2013;
 - 3.1.3. "**Record**" means any recorded information in the possession or under the control of the SWART Group, whether or not it was created by the SWART Group, regardless of when it came into existence, regardless of form or medium, including any of the following:
 - 3.1.3.1. writing on any material;

- 3.1.3.2. 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;
- 3.1.3.3. label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
- 3.1.3.4. book, map, plan, graph or drawing; and
- 3.1.3.5. any 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.

4. Entry point for access to information requests

- 4.1. Section 50 of PAIA provides that a private body is only required to provide access to a Record if:
 - 4.1.1. that Record is required for the exercise or protection of any rights;
 - 4.1.2. the requesting person complies with the procedural requirements in PAIA relating to a request for access to that Record (which are explained in the guide referred to in paragraph 5); and
 - 4.1.3. access to that Record is not refused in terms of a ground for refusal contemplated in sections 62 to 70 of PAIA.
- 4.2. Information will therefore not be furnished unless you have provided sufficient particulars to enable the SWART Group to identify the right that you seek to protect or exercise, as well as an explanation as to why the Record 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 and good governance.

5. Guide on how to use PAIA and how to obtain access to this guide

- 5.1. The Information Regulator has, in terms of section 10(1) of PAIA, updated and made available a revised guide on how to use PAIA, in an easily comprehensible form and manner. The guide contains information to assist a person wishing to exercise a right of access to information in terms of PAIA and POPIA.
- 5.2. Availability of the guide:
 - 5.2.1. Members of the public can inspect or make copies of the guide from the offices of public and private bodies, including the office of the Regulator, during normal working hours. The guide is also available upon request from the Information Officer.

5.2.2. The guide is also electronically available and can be downloaded from the Information Regulator's website at the following link: https://inforegulator.org.za/wp-content/uploads/2020/07/PAIA-Guide-English_20210905.pdf.

5.3. Any enquiries regarding the guide should be directed to the Information Regulator:

Postal address	JD House 27 Stiemens Street Braamfontein Johannesburg 2001
Telephone number	+27 (0) 10 023 5207
Fax number	086 500 3351
Email address	enquiries@inforegulator.org.za
Website	www.inforegulator.org.za

6. Records kept by the SWART Group in accordance with other legislation

6.1. Please note that the recording of the subject and categories of Records held by the SWART Group in this Manual does not imply that a request for access to said Records will be granted. All requests for access will be evaluated on a case-by-case basis in accordance with the provisions of PAIA and the relevant legislation concerned.

6.2. The SWART Group may be required to provide access to certain Records to persons or entities who are entitled to access such Records under other legislation, which legislation may include, but not be limited to:

6.2.1. Companies Act 71 of 2008;

6.2.2. Basic Conditions of Employment Act 75 of 1997;

6.2.3. Compensation for Occupational Injuries and Diseases Act 130 of 1993;

6.2.4. Income Tax Act 58 of 1962;

6.2.5. Unemployment Insurance Act 30 of 1966;

6.2.6. Value Added Tax Act 89 of 1991;

6.2.7. Protection of Personal Information Act 4 of 2013;

6.2.8. Consumer Protection Act 68 of 2008;

6.2.9. Legal Practice Act 28 of 2014;

- 6.2.10. Financial Intelligence Centre Act 38 of 2001;
- 6.2.11. Labour Relations Act 66 of 1995;
- 6.2.12. Occupational Health and Safety Act 85 of 1993;
- 6.2.13. Pension Funds Act 24 of 1956;
- 6.2.14. Promotion of Access to Information Act 2 of 2000;
- 6.2.15. Skills Development Act 97 of 1998;
- 6.2.16. National Credit Act 34 of 2005;
- 6.2.17. Broad-based Black Economic Empowerment Act 53 of 2008;
- 6.2.18. Competition Act 89 of 1998; and
- 6.2.19. Unemployment Insurance Contributions Act 4 of 2002.

7. Description of the subjects and categories of Records which the SWART Group holds

Subjects on which the body holds Records	Categories of Records
Human resources / employment	List of employees, contracts of employment with employees of the SWART Group, personnel Records of each employee of the SWART Group, disciplinary Records, compensation or redundancy payments, Records relating to conditions of employment, Employment Equity Plan of the SWART Group, pension and provident fund Records, employee tax information, training schedules and manuals, payroll Records and internal policies and procedures.
Financial / accounting	Annual financial statements, tax returns, audit reports conducted for the SWART Group, invoices in respect of creditors and debtors of SWART Group, bank facilities and account details, details of accounting officer or auditors, formal books of account and other financial statements, source documents, banking Records and management reports.
SWART Group	SWART Group registration documents, founding statement or Memorandum of Incorporation, share register and other statutory registers and minutes of meetings.
Information technology	Computer/mobile device usage policy documentation, disaster recovery plans, hardware asset registers, information security policies/standards/procedures, information technology systems and user manuals, information usage policy documentation, project implementation plans, software licensing and system documentation and manuals.

Intellectual property	Trade marks, copyrights and designs held by the SWART Group, software licences, Records relating to domain names.
Miscellaneous	Insurance Records, marketing agreements, agreements with suppliers of the SWART Group, lease agreements, confidentiality and/or non-disclosure agreements and any other relevant agreements.

8. Processing of personal information

8.1. We understand that upholding the right to privacy is integral to rendering legal services and, as such, strictly adhere to the conditions for the lawful processing of personal information in terms of the Protection of Personal Information Act, 2013 (herein "**POPIA**"). No personal information is collected from visitors to our Website.

8.2. Categories of recipients to whom personal information may be supplied

8.2.1. The SWART Group will only disclose personal information to third parties in order to render services to clients or for legitimate operational reasons. In such instances, we will only disclose personal information in line with the purpose for which it was initially collected. Recipients of such information may include:

8.2.1.1. payroll services providers;

8.2.1.2. the South African Revenue Services;

8.2.1.3. persons who have made a successful application for access to information, in terms of PAIA and POPIA;

8.2.1.4. consultants and associates of the SWART Group;

8.2.1.5. the Companies and Intellectual Property Commission;

8.2.1.6. vendors which assist us in rendering our services such as IT management and support services and cloud file storage vendors.

8.2.2. Information will only be shared with third parties under appropriate contractual obligations of confidentiality and compliance with POPIA.

8.2.3. On rare occasions, we may be required to disclose your personal information because of legal or regulatory requirements, for instance to comply with anti-money laundering legislation. In such instances, we reserve the right to disclose your personal information as required in order to comply with our legal obligations, including complying with court orders, warrants, subpoenas, service-of-Process requirements or discovery requests.

8.2.4. We may also disclose Personal Information to law enforcement officers or others, in the good faith belief that such disclosure is reasonably necessary:

8.2.4.1. to enforce our standard terms of engagement;

8.2.4.2. to respond to legal claims that any content violates the rights of third parties;

8.2.4.3. to protect our intellectual property rights; or

8.2.4.4. to protect our personal safety or the personal safety of our users or the general public.

8.3. Planned transborder flows of information

8.3.1. The SWART Group may, under limited circumstances, need to transfer personal information outside of South Africa, for instance to a cloud services provider hosted or an associate of the SWART Group situated in another country.

8.3.2. We will only do so, in accordance with POPIA, (1) once we have obtained your consent, (2) in order to render services to you in terms of a contract to which you are a party or which was concluded with a third party in your interest, or (3) where the recipient of the personal information is subject to a law, binding corporate rules or binding agreement which adequately safeguards your personal information in a manner substantially similar to POPIA.

8.4. Information security measures to ensure the confidentiality, integrity, and availability of information

8.4.1. We have implemented reasonable technical and organisational measures to keep personal information secure, in compliance with POPIA.

8.4.2. The measures we have taken to ensure the security and integrity of personal information in our possession include the following:

8.4.2.1. SWART Group documents and records are retained only as is necessary in terms of applicable legislation and are thereafter recycled into a locked bin and shredded;

8.4.2.2. the personal computers used by our staff for work purposes require connection to our virtually private network to gain access to our intranet which contains client files and documents;

8.4.2.3. our work devices are equipped with remote erasure software that can be activated in the event that such devices are lost or otherwise compromised; and

8.4.2.4. our cloud service provider adheres to the highest standards of cybersecurity and data privacy.

9. Contact information of head of body

Name	Dérick Swart
Designation	Managing director
Postal address	Docex 22, Stellenbosch
Street address	Unit D9 Octo Place, 5 Elektron Road, Techno Park, Stellenbosch
Email	derick@swart.law