

# PAIA and POPI Act Manual

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This manual was prepared in accordance with section 51 of the Promotion of Access to Information Act, 2000 and to address requirements of the Protection of Personal Information Act, 2013.

This manual applies to

**PENQUIN AIRTIME (PTY) LTD**

Registration number: 2000/014475/07

(hereinafter Penquin)

## 1. Definitions

- 1.1. **“Act”** means The Promotion of Access to Information Act, No. 2 of 2000.
- 1.2. **“Data Subject”** as defined in PoPI means the person natural or juristic to whom the Personal Information relates.
- 1.3. **Other Requester** means a person other than a Personal Requester who is entitled to request Personal Information from Penquin on third parties.
- 1.4. **“PAIA”** means the Act.
- 1.5. **“PAIA Manual”** means this information Manual as required in terms of section 51 of the Act.
- 1.6. **“Personal information”** as defined in PoPI, means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—
  - 1.6.1. 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;
  - 1.6.2. information relating to the education or the medical, financial, criminal or employment history of the person;
  - 1.6.3. any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
  - 1.6.4. the biometric information of the person;
  - 1.6.5. the personal opinions, views or preferences of the person;
  - 1.6.6. 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;
  - 1.6.7. the views or opinions of another individual about the person; and 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.
- 1.7. **“PoPI”** means the Protection of Personal Information Act 4 of 2013, and capitalised terms used in this PAIA Manual bear the same meaning as per the Act and PoPI, save where the context indicates otherwise

- 1.8. **“Process information”** means the automated or manual activity of collecting, recording, organising, storing, updating, distributing and removing or deleting personal information.
- 1.9. **“Personal Requester”** means a Requester who is seeking access to a record containing Personal Information about the Requester.
- 1.10. **“Requester”** means any person making a request for access to a record of Penquin.

## **2. Background to the Promotion of Access to Information Act**

- 2.1. The Act was enacted on 3 February 2000, giving effect to the constitutional right in terms of section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 108 of 1996 (the “Constitution”) of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights.
- 2.2. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, subject to applicable legislative and / or regulatory requirements, except where the Act expressly provides that the information may be automatically available from a public or private body.

## **3. Penquin Airtime (Pty)**

- 3.1. Penquin is a fully-integrated advertising agency.
- 3.2. This PAIA Manual of Penquin is available at its premises: 16 Louis Road, Orchards, Johannesburg as well as on its website – [www.penquin.co.za](http://www.penquin.co.za)

## **4. Purpose of the PAIA Manual**

- 3.1 The purpose of the Act is to promote the right of access to information, to foster a culture of transparency and accountability within Penquin by giving the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect their rights.
- 3.2 In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in relation to public and private bodies.
- 3.3 Section 9 of the Act recognises that the right to access information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:
  - 3.3.1 Limitations aimed at the reasonable protection of privacy;

3.3.2 Commercial confidentiality; and

3.3.3 Effective, efficient and good governance

and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

- 3.4 This PAIA Manual complies with the requirements of guide mentioned in section 10 of the Act and recognises that upon commencement of PoPI, that the appointed Information Regulator will be responsible to regulate compliance with the Act and its regulations by private and public bodies.

#### 4. Contact Details of the Managing Director [Section 51(1)(a)]

<b>Managing Director:</b>	Veronica Wainstein
<b>Registered Address:</b>	16 Louis Road, Orchards, Johannesburg
<b>Postal Address:</b>	16 Louis Road, Orchards, Johannesburg
<b>Telephone Number:</b>	011 879 1900
<b>Website:</b>	<a href="http://www.penguin.co.za">www.penguin.co.za</a>

#### 5. The Information Officer [Section 51(1)(b)]

- 5.1. The Act prescribes the appointment of an Information Officer for private bodies where such Information Officer is responsible to, inter alia, assess request for access to information. The head of a private body fulfils such a function in terms of section 51. Penguin has opted to appoint an Information Officer to assess such a request for access to information as well as to oversee its required functions in terms of the Act.
- 5.2. The Information Officer appointed in terms of the Act also refers to the Information Officer as referred to in PoPI. The Information Officer oversees the functions and responsibilities as required in terms of this Act as well as the duties and responsibilities in terms of section 55 of PoPI after registering with the Information Regulator.
- 5.3. The Information Officer may appoint, where it is deemed necessary, Deputy Information Officers, as allowed in terms of section 17 of the Act as well as section 56 of PoPI. This is in order to render Penguin as accessible as is reasonably possible for Requesters of its records, and to ensure fulfilment of its obligations and responsibilities as prescribed in terms of section 55 PoPI. All requests for information in terms of this Act must be addressed to the Information Officer.

### Contact Details of the Information Officer

<b>Information Officer:</b>	Amanda-Lee Davis
<b>Physical Address:</b>	16 Louis Road, Orchards, Johannesburg
<b>Telephone Number:</b>	011 879 1900
<b>E-Mail:</b>	mandyd@penquin.co.za

- 5.5 PoPI establishes an Information Regulator (IR). The IR can receive complaints from both Requesters and third parties in terms of PAIA. All powers and responsibilities currently being performed by the Commission in terms of PAIA will be taken over by the IR once that office has been authorised to do so i.e. all section 32 reports, section 14 manuals and section 51 manuals will have to be submitted to the IR.

### 6. Guide of SA Human Rights Commission (Section 51(1) (b))

- 6.1. The Act grants a Requester access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.
- 6.2. Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.
- 6.3. Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC and as of the 1<sup>st</sup> July 2021 shall be available from the Information Regulator.

6.4. The contact details of the Commission are:

<b>Contact body:</b>	<b>The South African Human Rights Commission</b>
<b>Physical Address:</b>	PAIA Unit 29 Princess of Wales Terrace Cnr York and Andrew Streets Parktown
<b>Postal Address:</b>	Private Bag 2700, Houghton 2041
<b>Telephone Number:</b>	+27 11 877 3600
<b>E-Mail:</b>	PAIA@sahrc.org.za
<b>Web Site:</b>	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>

6.5. The contact details of the Information Regulator are:

<b>Contact body:</b>	<b>The Information Regulator (South Africa)</b>
<b>Physical Address:</b>	JD House 27 Stiemens Street Braamfontein Johannesburg 2001
<b>Postal Address:</b>	P O Box 31533, Braamfontein, Johannesburg, 2017
<b>E-Mail:</b>	<a href="mailto:inforeg@justice.gov.za">inforeg@justice.gov.za</a> / <a href="mailto:complaints.IR@justice.gov.za">complaints.IR@justice.gov.za</a>
<b>Web Site:</b>	<a href="http://www.justice.gov.za/inforeg">www.justice.gov.za/inforeg</a>

## 7. The Latest Notice in Terms of Section 52(2) (if any) [Section 51(1)(c)]

7.1. No notice has been published on the categories of records that are automatically available without a person having to request access in terms of Section 52(2) of PAIA.

## 8. Subjects and Categories of Records Available only on Request for Access in Terms of the Act (Section 51(1) (e))

### 8.1. Records held by Penquin

For the purposes of this clause 8.1, "Personnel" refers to any person who works for, or provides services to, or on behalf of Penquin and receives or is entitled to receive remuneration, and any other person who assists in carrying out or conducting the business of Penquin. This includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff, as well as contract workers.

This clause serves as a reference to the categories of information that Penquin holds. The information is classified and grouped according to records relating to the following subjects and categories:

<b>Subject</b>	<b>Category</b>
<b>Companies Act Records</b>	Records kept and maintained by Penquin as required by the Companies Act including but not limited to: <ul style="list-style-type: none"><li>- Shareholders Agreements;</li><li>- Share Certificates; and</li><li>- Minutes of Directors Meetings</li></ul>
<b>Financial Records</b>	Records kept and maintained by Penquin in terms of their Financial Operations including but not limited to: <ul style="list-style-type: none"><li>- Accounting Records;</li><li>- Annual Financial Statements;</li><li>- Invoices; and</li><li>- Tax Returns</li></ul>
<b>Income Tax Records</b>	Records kept and maintained by Penquin in terms of their obligations to the South Africa Receiver of Revenue including but not limited to: <ul style="list-style-type: none"><li>- PAYE Records;</li><li>- Documents issued to employees for income tax purposes;</li><li>- Records of payments made to SARS on behalf of employees; and</li><li>- All other statutory compliances:</li></ul>

Subject	Category
<b>Personnel Documents &amp; Records</b>	Records kept and maintained by Penquin in terms of Employment Records of Penquin including but not limited to: <ul style="list-style-type: none"> <li>- Disciplinary Code and Records;</li> <li>- Employment Contracts;</li> <li>- Leave Records;</li> <li>- Salary Records; and</li> <li>- Standard letters and notices.</li> </ul>
<b>Procurement</b>	Records kept and maintained by Penquin in terms Procurement of Services including but not limited to: <ul style="list-style-type: none"> <li>- Standard Terms and Conditions for supply of services and products;</li> <li>- Lists of suppliers, products, services and distribution; and</li> <li>- Policies and Procedures.</li> </ul>
<b>Sales and Marketing</b>	Records kept and maintained by Penquin in terms of the Provision of Penquin Services including but not limited to: <ul style="list-style-type: none"> <li>- Customer details;</li> <li>- Databases; .and</li> <li>- Information and records provided by a third party.</li> </ul>
<b>IT Department</b>	Records kept and maintained by Penquin in terms of their IT Operations including but not limited to: <ul style="list-style-type: none"> <li>- Disaster recovery plans;</li> <li>- Information security policies/standards/procedures;</li> <li>- Information usage policy documentation; and</li> <li>- System documentation and manuals.</li> </ul>
<b>Corporate Social Responsibility (CSR)</b>	Records kept and maintained by Penquin in terms of their CSR programmes including but not limited to: <ul style="list-style-type: none"> <li>- CSR schedule of projects/record of organisations that receive funding; and</li> <li>- Records and contracts of agreement with funded organisations.</li> </ul>



8.2. Note that the accessibility of the records may be subject to the grounds of refusal set out in this PAIA manual. Amongst other, records deemed confidential on the part of a third party, will necessitate permission from the third party concerned, in addition to normal requirements, before Penquin will consider access.

## **9. Records Available without a Request to Access in terms of the Act**

9.1. Records of a public nature, typically those disclosed on the Penquin website and in its annual reports (if any), may be accessed without the need to submit a formal application.

9.2. Other non-confidential records, such as statutory records maintained at CIPC, may also be accessed without the need to submit a formal application, however, please note that an appointment to view such records will still have to be made with the Information Officer.

## **10. Description of the Records of Penquin Which are Available in Accordance with any other Legislation (Section 51(1) (d))**

10.1. Where applicable to its operations, Penquin may retain records and documents in terms of the legislation 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 acts shall be made available for inspection by interested parties in terms of the requirements and conditions of the Act, the below mentioned legislation 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 the Act.

10.1.1. Auditing Professions Act, No 26 of 2005;

10.1.2. Basic Conditions of Employment Act, No 75 of 1997;

10.1.3. Broad- Based Black Economic Empowerment Act, No 75 of 1997;

10.1.4. Companies Act, No 71 of 2008;

10.1.5. Compensation for Occupational Injuries & Diseases Act, 130 of 1993;

10.1.6. Competition Act, No.71 of 2008;

10.1.7. Constitution of the Republic of South Africa 2008;

10.1.8. Copyright Act, No 98 of 1978;

10.1.9. Customs & Excise Act, 91 of 1964

- 10.1.10. Electronic Communications Act, No 36 of 2005;
- 10.1.11. Electronic Communications and Transactions Act, No 25 of 2002;
- 10.1.12. Employment Equity Act, No 55 of 1998;
- 10.1.13. Financial Intelligence Centre Act, No 38 of 2001;
- 10.1.14. Income Tax Act, No 58 of 1962;
- 10.1.15. Intellectual Property Laws Amendment Act, No 38 of 1997;
- 10.1.16. Labour Relations Act, No 66 of 1995;
- 10.1.17. Long Term Insurance Act, No 52 of 1998;
- 10.1.18. Occupational Health & Safety Act, No 85 of 1993;
- 10.1.19. Pension Funds Act, No 24 of 1956;
- 10.1.20. Prescription Act, No 68 of 1969;
- 10.1.21. Prevention of Organised Crime Act, No 121 of 1998;
- 10.1.22. Promotion of Access to Information Act, No 2 of 2000;
- 10.1.23. Protection of Personal Information Act, No. 4 of 2013;
- 10.1.24. Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002;
- 10.1.25. Revenue laws Second Amendment Act. No 61 of 2008;
- 10.1.26. Skills Development Levies Act No. 9 of 1999;
- 10.1.27. Short-term Insurance Act No. 53 of 1998;
- 10.1.28. Trust Property Control Act 57 of 1988;
- 10.1.29. Unemployment Insurance Contributions Act 4 of 2002;
- 10.1.30. Unemployment Insurance Act No. 30 of 1966; and
- 10.1.31. Value Added Tax Act 89 of 1991.

Although Penquin have used their best endeavours to supply a list of applicable legislation, it is possible that this list may be incomplete. Whenever it comes to Penquin's attention that existing or new legislation allows a Requester access on a basis other than as set out in PAIA, Penquin shall update the list accordingly. If a Requester believes that a right of access to a record exists in terms of other legislation listed above or any other legislation, the Requester is required to indicate what legislative right the request is based on, to allow the Information Officer the opportunity of considering the request in light thereof.

- 10.2. It is further recorded that the accessibility of documents and records may be subject to the grounds of refusal set out in this PAIA Manual.
- 10.3. Where a request is made by a Personal Requester, Penquin will voluntarily provide the requested information or give access to any record with regard to the requester's Personal Information. The prescribed fee for reproduction of the information requested will be charged.
- 10.4. In considering request from Other Requesters, Penquin will adhere to the provisions of the Act. Section 71 requires that the Information Officer take all reasonable steps to inform a third party to whom the requested record relates of the request, informing him/her that he/she may make a written or oral representation to the Information Officer why the request should be refused or, where required, give written consent for the disclosure of the Information.

#### **11. Detail to Facilitate a Request for Access to a Record of Penquin (Section 51(1)(e))**

- 11.1. The Requester must comply with all of the procedural requirements contained in the Act relating to the request for access to a record.
- 11.2. The Requester must complete the prescribed form enclosed herewith and submit same as well as payment of a request fee and a deposit (if applicable) to the Information Officer or the Deputy Information Officer at the postal or physical address, or electronic mail address as noted in clause 5 above.
- 11.3. The prescribed form must be filled in with sufficient information to enable the Information Officer to identify:
- 11.3.1. the record or records requested; and
  - 11.3.2. the identity of the Requester.
- 11.4. The Requester should indicate which form of access is required and specify a postal address or email address of the Requester in the Republic.
- 11.5. The Requester must state that he/she requires the information in order 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 clearly specify why the record is necessary to exercise or protect such a right (section 53(2)(d)).

- 11.6. Penquin will process the request within 30 (thirty) days, unless the Requester has stated special reasons to the satisfaction of the Information Officer that circumstances dictate that the above time periods not be complied with.
- 11.7. The Requester shall be advised whether access is granted or denied in writing. If, in addition, the Requester requires the reasons for the decision in any other manner, the Requester will be obliged to state which manner and the particulars required.
- 11.8. If a request is made on behalf of another person, then the Requester must submit proof of the capacity in which the Requester is making the request to the reasonable satisfaction of the Information Officer (section 53(2)(f)).
- 11.9. If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 11.10. The Requester must pay the prescribed fee, before any further processing can take place.
- 11.11. All information as listed in clause 11 herein should be provided and failing which, the process will be delayed until the required information is provided. The prescribed time periods will not commence until the Requester has furnished all the necessary and required information. The Information Officer shall sever a record, if possible, and grant only access to that portion requested and which is not prohibited from being disclosed.

## **12. Refusal of Access to Records**

- 12.1. A private body such as Penquin is entitled to refuse a request for information. The main grounds for Penquin to refuse a request for information relates to the:
  - 12.1.1. mandatory protection of the privacy of a third party who is a natural person or a deceased person (section 63) or a juristic person, as included in the Protection of Personal Information Act 4 of 2013, which would involve the unreasonable disclosure of personal information of that natural or juristic person;
  - 12.1.2. mandatory protection of personal information and for disclosure of any personal information to, in addition to any other legislative, regulatory or contractual agreements, comply with the provisions of the Protection of Personal Information Act 4 of 2013;
  - 12.1.3. mandatory protection of the commercial information of a third party (section 64) if the records contain:

- 12.1.3.1. trade secrets of the third party;
  - 12.1.3.2. financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
  - 12.1.3.3. information disclosed in confidence by a third party to Penquin, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
  - 12.1.3.4. mandatory protection of confidential information of third parties (section 65) if it is protected in terms of any agreement;
  - 12.1.3.5. mandatory protection of the safety of individuals and the protection of property (section 66);
  - 12.1.3.6. mandatory protection of records which would be regarded as privileged in legal proceedings (section 67).
- 12.1.4. the commercial activities (section 68) of a private body, such as Penquin, which may include:
- 12.1.4.1. trade secrets of Penquin;
  - 12.1.4.2. financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of Penquin;
  - 12.1.4.3. information which, if disclosed could put Penquin at a disadvantage in negotiations or commercial competition;
  - 12.1.4.4. a computer program which is owned by Penquin, and which is protected by copyright;
  - 12.1.4.5. the research information (section 69) of Penquin or a third party, if its disclosure would disclose the identity of Penquin, the researcher or the subject matter of the research and would place the research at a serious disadvantage.
- 12.2. Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.
- 12.3. All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation.

12.4. If a requested record cannot be found or if the record does not exist, the Information Officer shall, by way of an affidavit or affirmation, notify the Requester that it is not possible to give access to the requested record. Such a notice will be regarded as a decision to refuse a request for access to the record concerned for the purpose of the Act. If the record should later be found, the Requester shall be given access to the record in the manner stipulated by the Requester in the prescribed form, unless the Information Officer refuses access to such record.

### **13. Remedies Available When Penquin Refuses a Request**

#### **13.1. Internal Remedies**

13.1.1. Penquin does not have internal appeal procedures. The decision made by the Information Officer is final. Requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the Requestor is not satisfied with the answer supplied by the Information Officer.

#### **13.2. External Remedies**

13.2.1. A Requester or a third party that is dissatisfied with the Information Officer's refusal to disclose information, may within 30 (thirty) days of notification of the decision, apply to a Court for relief.

13.2.2. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and a Magistrate's Court designated by the Minister of Justice and Constitutional Development, and which is presided over by a designated Magistrate.

### **14. Access to Records Held by Penquin**

14.1. Records held by Penquin may be accessed by request only once the prerequisite requirements for access have been met.

14.2. Penquin is not obliged to voluntarily grant access to such records. The Requester must fulfil the prerequisite requirements, in accordance with the requirements of the Act and as stipulated in Chapter 5; Part 3, including the payment of a request and access fee.

## 15. Prescribed Fees (Section 51 (1) (f))

### 15.1. Fees Provided by the Act

#### 15.1.1. The Act provides for two types of fees, namely:

15.1.1.1. A request fee, which is a form of administration fee to be paid by all Requesters except personal Requesters, before the request is considered, and is not refundable; and

15.1.1.2. An access fee, which is paid by all Requesters in the event that a request for access is granted. This fee is inclusive of costs involved by the private body in obtaining and preparing a record for delivery to the Requester.

15.1.2. When the request is received by the Information Officer, such officer shall by notice require the Requester, other than a personal Requester, to pay the prescribed request fee, before further processing of the request (section 54(1)).

15.1.3. If the search for the record has been made 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.

15.1.4. The Information Officer shall withhold a record until the Requester has paid the fees as indicated below.

15.1.5. A Requester whose request for access to a record has been granted, must pay an access fee that is calculated to include, where applicable, the request fee, the process fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.

15.1.6. If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the Requester.

## 16. **Reproduction Fee**

16.1. Where Penquin has voluntarily provided a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

<b>Reproduction of Information Fees</b>	<b>Fees to be Charged</b>
Information in an A-4 size page photocopy or part thereof	R 1,10
A printed copy of an A4-size page or part thereof	R 0,75
A copy in computer-readable format, for example: Compact disc	R 70,00
A transcription of visual images, in an A4-size page or part thereof	R 40,00
A copy of visual images	R 60,00
A transcription of an audio record for an A4-size page or part thereof	R 20,00
A copy of an audio record	R 30,00

## 16.2. **Request Fees**

16.2.1. Where a Requester submits a request for access to information held by an institution on a person other than the Requester himself/herself, a request fee in the amount of R50,00 is payable up-front before the institution will further process the request received.

## 16.3. **Access Fees**

16.3.1. An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act or an exclusion is determined by the Minister in terms of section 54(8).

**The applicable access fees which will be payable are:**



<b>Access of Information Fees</b>	<b>Fees to be Charged</b>
Information in an A-4 size page photocopy or part thereof	R 1,10
A printed copy of an A4-size page or part thereof	R 0,75
A copy in computer-readable format, for example: USB	R 70,00
A transcription of visual images, in an A4-size page or part thereof	R 40,00
A copy of visual images	R 60,00
A transcription of an audio record for an A4-size page or part thereof	R 20,00
A copy of an audio record *Per hour or part of an hour reasonably required for such search.	R 30,00*
Where a copy of a record needs to be posted the actual postal fee is payable.	

#### 16.4. Deposits

16.4.1. Where the institution receives a request for access to information held on a person other than the Requester himself/herself and the Information Officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take more than 6 (six) hours, a deposit is payable by the Requester.

16.4.2. The amount of the deposit is equal to 1/3 (one third) of the amount of the applicable access fee.

#### 16.5. Collection Fees

16.5.1. The initial "request fee" of R50,00 should be deposited into the bank account below and a copy of the deposit slip, application form and other correspondence / documents, forwarded to the Information Officer via e-mail.

16.5.2. The officer will collect the initial "request fee" of applications received directly by the Information Officer via email.

16.5.3. All fees are subject to change as allowed for in the Act and as a consequence such escalations may not always be immediately available at the time of the request being made. Requesters shall be informed of any changes in the fees prior to making a payment.

## **17. Decision**

### **17.1. Time Allowed to Institution**

17.1.1. Penquin will, within 30 (thirty) days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

17.1.2. The 30 (thirty) day period within which Penquin has to decide whether to grant or refuse the request, may be extended for a further period of not more than (30) thirty days if the request is for a large number of information, or the request requires a search for information held at another office of Penquin and the information cannot reasonably be obtained within the original 30 (thirty) day period.

17.1.3. Penquin will notify the Requester in writing should an extension be sought.

## **18. Protection of Personal Information that is Processed by Penquin**

18.1. Chapter 3 of PoPI provides for the minimum Conditions for Lawful Processing of Personal Information by a Responsible Party. These conditions may not be derogated from unless specific exclusions apply as outlined in PoPI.

18.2. Penquin needs Personal Information relating to both individual and juristic persons in order to carry out its business and organisational functions. The manner in which this information is Processed and the purpose for which it is Processed is determined by Penquin. Penquin is accordingly a Responsible Party for the purposes of PoPI and will ensure that the Personal Information of a Data Subject:

18.2.1. is processed lawfully, fairly and transparently. This includes the provision of appropriate information to Data Subjects when their data is collected by Penquin, in the form of privacy or data collection notices. Penquin must also have a legal basis (for example, consent) to process Personal Information;

18.2.2. is processed only for the purposes for which it was collected;

- 18.2.3. will not be processed for a secondary purpose unless that processing is compatible with the original purpose.
- 18.2.4. is adequate, relevant and not excessive for the purposes for which it was collected;
- 18.2.5. is accurate and kept up to date;
- 18.2.6. will not be kept for longer than necessary;
- 18.2.7. is processed in accordance with integrity and confidentiality principles; this includes physical and organisational measures to ensure that Personal Information, in both physical and electronic form, are subject to an appropriate level of security when stored, used and communicated by Penquin, in order to protect against access and acquisition by unauthorised persons and accidental loss, destruction or damage;
- 18.2.8. is processed in accordance with the rights of Data Subjects, where applicable. Data Subjects have the right to:
  - 18.2.8.1. be notified that their Personal Information is being collected by Penquin. The Data Subject also has the right to be notified in the event of a data breach;
  - 18.2.8.2. know whether Penquin holds Personal Information about them, and to access that information. Any request for information must be handled in accordance with the provisions of this Manual;
  - 18.2.8.3. request the correction or deletion of inaccurate, irrelevant, excessive, out of date, incomplete, misleading or unlawfully obtained personal information;
  - 18.2.8.4. object to Penquin's use of their Personal Information and request the deletion of such Personal Information (deletion would be subject to Penquin's record keeping requirements);
  - 18.2.8.5. object to the processing of Personal Information for purposes of direct marketing by means of unsolicited electronic communications; and
  - 18.2.8.6. complain to the Information Regulator regarding an alleged infringement of any of the rights protected under PoPI and to institute civil proceedings regarding the alleged noncompliance with the protection of his, her or its personal information.

### **18.3. Purpose of the Processing of Personal Information by the Company**

18.3.1. As outlined above, Personal Information may only be processed for a specific purpose.

The purposes for which Penquin processes or will process Personal Information is set out in Part 1 of Appendix 2.

### **18.4. Categories of Data Subjects and Personal Information/special Personal Information relating thereto**

18.4.1. As per section 1 of PoPI, a Data Subject may either be a natural or a juristic person. Part 2 of Appendix 2 sets out the various categories of Data Subjects that Penquin Processes Personal Information on and the types of Personal Information relating thereto.

### **18.5. Recipients of Personal Information**

18.5.1. Part 3 of Appendix 2 outlines the recipients to whom Penquin may provide a Data Subject's Personal Information to.

### **18.6. Cross-border flows of Personal Information**

18.6.1. Section 72 of PoPI provides that Personal Information may only be transferred out of the Republic of South Africa if the:

18.6.1.1. recipient country can offer such data an "adequate level" of protection. This means that its data privacy laws must be substantially similar to the Conditions for Lawful Processing as contained in PoPI; or

18.6.1.2. Data Subject consents to the transfer of their Personal Information; or

18.6.1.3. transfer is necessary for the performance of a contractual obligation between the Data Subject and the Responsible Party; or

18.6.1.4. transfer is necessary for the performance of a contractual obligation between the Responsible Party and a third party, in the interests of the Data Subject; or

18.6.1.5. 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 in all likelihood provide such consent.

18.6.2. Part 4 of Appendix 2 sets out the planned cross-border transfers of Personal Information and the condition from above that applies thereto.

## **18.7. Description of information security measures to be implemented by Penquin**

18.7.1. Part 5 of Appendix 2 sets out the types of security measures to be implemented by Penquin in order to ensure that Personal Information is respected and protected. A preliminary assessment of the suitability of the information security measures implemented or to be implemented by Penquin may be conducted in order to ensure that the Personal Information that is processed by Penquin is safeguarded and Processed in accordance with the Conditions for Lawful Processing.

## **18.8. Objection to the Processing of Personal Information by a Data Subject**

18.8.1. Section 11 (3) of PoPI and regulation 2 of the PoPI Regulations provides that a Data Subject may, at any time object to the Processing of his/her/its Personal Information in the prescribed form attached to this manual as Appendix 3 subject to exceptions contained in PoPI.

## **18.9. Request for correction or deletion of Personal Information**

18.10. Section 24 of PoPI and regulation 3 of the PoPI Regulations provides that a Data Subject may request for their Personal Information to be corrected/deleted in the prescribed form attached as Appendix 4 to this Manual.

## **19. Availability and Updating of the PAIA Manual**

- 19.1. This PAIA Manual is made available in terms of Regulation Number R.187 of 15 February 2002. Penquin will update this PAIA Manual at such intervals as may be deemed necessary.
- 19.2. This PAIA Manual of Penquin is available to view at its premises and on its website.

**Appendix 1: Access Request Form**



J752

REPUBLIC OF SOUTH AFRICA

FORM C - 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:													
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

- |  |
|--|
| <p>(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.</p> <p>(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.</p> |
|--|

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 below, 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.			
<p>NOTES:</p> <p>(a) Compliance with your request for access in the specified form may depend on the form in which the record is available.</p> <p>(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.</p> <p>(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.</p>			

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		transcription of soundtrack		
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
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.				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 ..... this day ..... of ..... year.....  
.....

Signature of Requester /

Person on Whose Behalf Request is Made

## **Appendix 2: Part 1 Processing of Personal Information in Accordance with POPI**

### **For consumers:**

- Performing duties in terms of any agreement with consumers
- Make, or assist in making, credit decisions about consumers
- Operate and manage consumers' accounts and manage any application, agreement or correspondence consumers may have with Penquin.
- Communicating (including direct marketing) with consumers by email, SMS, letter, telephone or in any other way about Penquin's products and services, unless consumers indicate otherwise
- To form a view of consumers as individuals and to identify, develop or improve products, that may be of interest to consumers
- Carrying out market research, business and statistical analysis
- Performing other administrative and operational purposes including the testing of systems
- Recovering any debt consumers may owe Penquin
- Complying with the Penquin's regulatory and other obligations
- Any other reasonably required purpose relating to Penquin's business

### **For prospective consumers:**

- Verifying and updating information
- Credit applications
- Direct marketing
- Any other reasonably required purpose relating to the processing of a prospect's personal information reasonably related to Penquin's business.

### **For employees:**

- The same purposes as for consumers (above)
- Verification of applicant employees' information during recruitment process
- General matters relating to employees:
  - Pension
  - Medical aid
  - Payroll

- Disciplinary action
- Training
- Any other reasonably required purpose relating to the employment or possible employment relationship.

**For 3<sup>rd</sup> parties /suppliers /other businesses:**

- Verifying information and performing checks;
- Purposes relating to the agreement or business relationship or possible agreement or business relationships between the parties;
- Payment of invoices;
- Complying with the Penquin's regulatory and other obligations; and
- Any other reasonably required purpose relating to Penquin's business.

## **Appendix 2: Part 2 Categories of Data Subjects and Categories of Personal Information relating thereto**

### **Employees**

- Title, name and contact details
- Identity number and identity documents including passports
- Employment history and references
- Banking and financial details
- Details of payments to third parties (deductions from salary)
- Employment contracts
- Employment equity plans
- Medical aid records
- Pension Fund records
- Remuneration/salary records
- Performance appraisals
- Disciplinary records
- Leave records
- Training records

### **Consumers and prospective consumers (which may include employees)**

- Postal and/or street address
- Title and name
- Contact numbers and/or e-mail address
- Ethnic group
- Employment history
- Age
- Gender
- Marital status
- Nationality
- Language

- Financial information
- Identity or passport number
- Browsing habits and click patterns on Penquin's websites.

**Vendors /suppliers /other businesses:**

- Title, name and contact details
- Identity or passport number
- company information, including company registration number
- directors' information, including identity or passport numbers, addresses and contact details
- Banking and financial information
- Information about products or services
- Other information not specified, reasonably required to be processed for business operations

## **Appendix 2: Part 3 Recipients of Personal Information**

- Any firm, organisation or person that Penquin uses to collect payments and recover debts or to provide a service on its behalf;
- Any firm, organisation or person that/who provides Penquin with products or services;
- Any payment system Penquin uses;
- Regulatory and governmental authorities or ombudsmen, or other authorities, including tax authorities, where Penquin has a duty to share information;
- Third parties to whom payments are made on behalf of employees;
- Financial institutions from whom payments are received on behalf of data subjects;
- Any other operator not specified;
- Employees, contractors and temporary staff; and
- Agents.

## **Appendix 2: Part 4 – Cross border transfers of Personal Information**

Personal Information may be transmitted transborder to Penquin’s suppliers in other countries, and Personal Information may be stored in data servers hosted outside South Africa, which may not have adequate data protection laws. Penquin will endeavour to ensure that its dealers and suppliers will make all reasonable efforts to secure said data and Personal Information.



## **Appendix 2: Part 5 – Description of information security measures**

Penquin undertakes to institute and maintain the data protection measures to accomplish the following objectives outlined below.

The details given are to be interpreted as examples of how Penquin could achieve an adequate data protection level for each objective. Penquin may use alternative measures and adapt to technological security development, as needed, provided that the objectives are achieved.

### **1. Access Control of Persons**

Penquin shall implement suitable measures in order to prevent unauthorized persons from gaining access to the data processing equipment where the data are processed.

### **2. Data Media Control**

Penquin undertakes to implement suitable measures to prevent the unauthorized manipulation of media, including reading, copying, alteration or removal of the data media used by Penquin and containing personal data of Customers.

### **3. Data Memory Control**

Penquin undertakes to implement suitable measures to prevent unauthorized input into data memory and the unauthorised reading, alteration or deletion of stored data.

### **4. User Control**

Penquin shall implement suitable measures to prevent its data processing systems from being used by unauthorised persons by means of data transmission equipment.

### **5. Access Control to Data**

Penquin represents that the persons entitled to use Penquin's data processing system are only able to access the data within the scope and to the extent covered by their respective access permissions.

### **6. Transmission Control**

Penquin shall be obliged to enable the verification and tracing of the locations to which the personal information is transferred by utilization of Penquin's data communication equipment / devices.

### **7. Transport Control**

Penquin shall implement suitable measures to prevent Personal Information from being read, copied, altered or deleted by unauthorized persons during the transmission thereof or during the transport of the data media.

## **8. Organisation Control**

Penquin shall maintain its internal organisation in a manner that meets the requirements of this Manual.

**Appendix 3: Objection to the Processing of Personal Information in terms of Section 11(3) of the Protection of Personal Information Act, 2013**

**Regulations Relating to The Protection of Personal Information, 2018**

**Note:**

- 1 Affidavits or other documentary evidence as applicable in support of the objection may be attached.
- 2 If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.
- 3 Complete as is applicable

<b>A</b>	<b>DETAILS OF DATA SUBJECT</b>
Name(s) and surname/ registered name of data subject:	
Unique Identifier/ Identity Number	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
<b>B</b>	<b>DETAILS OF RESPONSIBLE PARTY</b>
Name(s) and surname/ registered name of data subject:	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
<b>C</b>	<b>REASONS FOR OBJECTION IN TERMS OF SECTION 11(1)(d) to (f) (Please provide detailed reasons for the objection)</b>

Signed at ..... this ..... day of .....20...

.....  
Signature of data subject/designated person

**Appendix 4: Request for Correction or Deletion of Personal Information or Destroying or Deletion of Record of Personal Information in terms of Section 24(1) of the Protection of Personal Information Act, 2013**

**Regulations Relating to the Protection of Personal Information, 2018**

[Regulation 3]

**Note:**

1. Affidavits or other documentary evidence as applicable in support of the request may be attached.
2. If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.
3. Complete as is applicable.

Mark the appropriate box with an "x".

Request for:

- Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.
- Destroying or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information

<b>A</b>		<b>Details of Data Subject</b>
Name(s) and surname/ registered name of data subject:		
Unique Identifier/ Identity Number		
Residential, postal or business address:		
Contact number(s):		
Fax number / E-mail address:		
<b>B</b>		<b>DETAILS OF RESPONSIBLE PARTY</b>
Name(s) and surname/ registered name of data subject:		
Residential, postal or business address:		
Contact number(s):		
Fax number / E-mail address:		
<b>C</b>	<b>Reasons for Objection in Terms of Section 11(1)(D) to (F) (Please Provide Detailed Reasons for The Objection)</b>	
<b>D</b>	<b>Reasons for *Correction or Deletion of the Personal Information about the Data Subject in Terms of Section 24(1)(a) which is in Possession or Under the Control of the Responsible Party; and or Reasons for *Destruction or Deletion of a Record of Personal Information about the Data Subject in Terms of Section 24(1)(b) which the Responsible Party is no longer Authorised to Retain. (Please Provide Detailed Reasons for the Request)</b>	