

# EMMS & EMMS PROPERTIES

Registered with the PPRA

# PAIA MANUAL

In terms of Section 51 of

**The Promotion of Access to Information Act 2 of 2000**

(as amended)

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## LIST OF ABBREVIATIONS

|         |                                                                    |
|---------|--------------------------------------------------------------------|
| “CEO”   | Chief Executive Officer                                            |
| “DIO”   | Deputy Information Officer;                                        |
| “CIO”   | Chief Information Officer;                                         |
| “PAIA”  | Promotion of Access to Information Act No. 2 of 2000( as Amended;) |
| “POPIA” | Protection of Personal Information Act No.4 of 2013;               |

## LIST OF ACRONYMS

|                |                                                          |
|----------------|----------------------------------------------------------|
| “Constitution” | Constitution of the Republic of South Africa 108 of 1996 |
| “PAIA Manual”  | Information Manual                                       |
| “Minister”     | Minister of Justice and Correctional Services            |
| “Regulator”    | Information Regulator                                    |
| “Republic”     | Republic of South Africa                                 |

### 1. Introduction

The Promotion of Access to Information Act, No. 2 of 2000 (PAIA) is giving effect to the constitutional right of all, *in terms of section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 108 of 1996 (“Constitution”)* the 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/protection of any rights

Promotion of Access to Information Act (PAIA) and the Protection of Personal Information Act (POPIA) could be confusing. They can be seen as "information" laws and are both from the 1<sup>st</sup> of July 2021 enforced by the same Information Regulator. **PAIA is an "Access" law**, all about access of Information and **POPIA is a "Privacy" law** all about privacy of personal information. They shouldn't be seen as competing, but rather, both are there to **help ensure that information is managed correctly**.

### 2. Purpose of PAIA manual

In terms of section 51 of the PAIA, all Private Bodies are required to compile an Information Manual (“PAIA Manual”). This PAIA Manual is useful for the public to-

- 2.1. check the **categories of records held by a Business** which are available without a person having to submit a formal PAIA request;
- 2.2. have a sufficient understanding of **how to make a request for access** to a record of a Business, by providing a description of the subjects on which a Business holds records and the categories of records held on each subject;
- 2.3. now the **description of the records** of a Business which are available in accordance with **any other legislation**;

- 2.4. access all the relevant **contact details of the Information Officer and Deputy Information Officer** who will assist the public with the records they intend to access;
- 2.5. know the description of the **guide on how to use PAIA, as updated by the Regulator and how to obtain access to it**;
- 2.6. know if a Business will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;
- 2.7. know the description of the **categories of data subjects** and of the information or categories of information relating thereto;
- 2.8. know the **recipients or categories of recipients to whom the personal information may be supplied**;
- 2.9. know if a Business has planned to transfer or process personal information **outside the Republic of South Africa** and the recipients or categories of recipients to whom the personal information may be supplied; and
- 2.10. know whether a Business has **appropriate security measures to ensure the confidentiality, integrity and availability of the personal information** which is to be processed.

### 3. Guide on how to use PAIA and how to obtain access to the guide

- 3.1. The Regulator has, in terms of section 10(1) of PAIA, as amended, updated and made available the revised **Guide on how to use PAIA** ("Guide"), in an easily comprehensible form and manner, as may **reasonably be required by a person who wishes to exercise any right contained in PAIA and POPIA**.
- 3.2. The Guide is available in each of the official languages and in braille.
- 3.3. The aforesaid Guide contains the description of-
  - 3.3.1. the objects of PAIA and POPIA;
  - 3.3.2. the postal and street address, phone and fax number and, if available, electronic mail address of-
    - 3.3.2.1 the Information Officer of every public body, and
    - 3.3.2.2 every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA<sup>1</sup> and section 56 of POPIA<sup>2</sup>;
- 3.3.3 the manner and form of a request for-
  - 3.3.3.1. access to a record of a public body contemplated in section 11<sup>3</sup>; and
  - 3.3.3.2. access to a record of a private body contemplated in section 50<sup>4</sup>;

<sup>1</sup> Section 17(1) of PAIA- For the purposes of PAIA, each public body must, subject to legislation governing the employment of personnel of the public body concerned, designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records.

<sup>2</sup> Section 56(a) of POPIA- Each public and private body must make provision, in the manner prescribed in section 17 of the Promotion of Access to Information Act, with the necessary changes, for the designation of such a number of persons, if any, as deputy information officers as is necessary to perform the duties and responsibilities as set out in section 55(1) of POPIA.

<sup>3</sup> Section 11(1) of PAIA- A requester must be given access to a record of a public body if that requester complies with all the procedural requirements in PAIA relating to a request for access to that record; and access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

<sup>4</sup> Section 50(1) of PAIA- A requester must be given access to any record of a private body if-

- a) that record is required for the exercise or protection of any rights;
- b) that person complies with the procedural requirements in PAIA relating to a request for access to that record; and
- c) access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

- 3.3.4. the assistance available from the IO of a public body in terms of PAIA and POPIA;
- 3.3.5 the assistance available from the Regulator in terms of PAIA and POPIA;
- 3.3.6. all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-
  - 3.3.6.1. an internal appeal;
  - 3.3.6.2. a complaint to the Regulator; and
  - 3.3.6.3. an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;
- 3.3.7. the provisions of sections 14<sup>5</sup> and 51<sup>6</sup> requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
- 3.3.8. the provisions of sections 15<sup>7</sup> and 52<sup>8</sup> providing for the voluntary disclosure of categories of records by a public body and private body, respectively;
- 3.3.9. the notices issued in terms of sections 22<sup>9</sup> and 54<sup>10</sup> regarding fees to be paid in relation to requests for access; and
- 3.3.10. the regulations made in terms of section 92<sup>11</sup>.
- 3.4. Members of the public can inspect or make copies of the Guide from the offices of the public and private bodies, including the office of the Regulator, during normal working hours.
- 3.5. The Guide can also be obtained-
  - 3.5.1. upon request to the Information Officer;
  - 3.5.2. from the website of the Regulator (<https://www.justice.gov.za/infoereg/>).

<sup>5</sup> Section 14(1) of PAIA- The information officer of a public body must, in at least three official languages, make available a manual containing information listed in paragraph 3 above.

<sup>6</sup> Section 51(1) of PAIA- The head of a private body must make available a manual containing the description of the information listed in paragraph 3 above.

<sup>7</sup> Section 15(1) of PAIA- The information officer of a public body, must make available in the prescribed manner a description of the categories of records of the public body that are automatically available without a person having to request access

<sup>8</sup> Section 52(1) of PAIA- The head of a private body may, on a voluntary basis, make available in the prescribed manner a description of the categories of records of the private body that are automatically available without a person having to request access

<sup>9</sup> Section 22(1) of PAIA- The information officer of a public body to whom a request for access is made, must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

<sup>10</sup> Section 54(1) of PAIA- The head of a private body to whom a request for access is made must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

<sup>11</sup> Section 92(1) of PAIA provides that –“The Minister may, by notice in the Gazette, make regulations regarding-  
 (a) any matter which is required or permitted by this Act to be prescribed;  
 (b) any matter relating to the fees contemplated in sections 22 and 54;  
 (c) any notice required by this Act;  
 (d) uniform criteria to be applied by the information officer of a public body when deciding which categories of records are to be made available in terms of section 15; and  
 (e) any administrative or procedural matter necessary to give effect to the provisions of this Act.”

3.6. A copy of the Guide is also available in the following two official languages, for public inspection during normal office hours-

3.6.1. English

3.6.2. (Afrikaans)

**The SA Information Regulator Address:** P.O Box 31533, Braamfontein, Johannesburg, 2017 or JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001

**General enquiries email:** [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za).

**Complaint's email:** [POPIAComplaints.IR@justice.gov.za](mailto:POPIAComplaints.IR@justice.gov.za) & [PAIAComplaints.IR.@justice.gov.za](mailto:PAIAComplaints.IR.@justice.gov.za)

**4. Categories of records of Emms & Emms Properties which are available without a person having to request access by completing a form.**

| Category of records        | Types of the Record                           | Available on Website | Available upon request |
|----------------------------|-----------------------------------------------|----------------------|------------------------|
| PAIA Manual                | Guidance for Property Practitioners & Clients | x                    | x                      |
| POPIA Compliance Framework | Guidance for Property Practitioners           |                      | x                      |
| FICA Manual                | Guidance for Property Practitioners           |                      | x                      |
| Code of Conduct: AUTHORITY | Guidance for Property Practitioners           |                      | x                      |

**5. Description of the records of Emms & Emms Properties which are available in accordance with any other legislation**

| Category of Records         | Applicable Legislation                                                  |
|-----------------------------|-------------------------------------------------------------------------|
| PAIA Manual                 | Promotion of Access to Information Act 2 of 2000                        |
| POPIA Compliance Framework  | Protection of Personal Information Act of 2013                          |
| FICA Manual & records       | Financial Intelligence Centre Act 38 of 2001                            |
| Code of Conduct: AUTHORITY  | Property Practitioners Act, 2019 (Act 22 of 2019) & PP Regulations 2022 |
| Memorandum of incorporation | Companies Act 71 of 2008                                                |

**6. Description of the subjects on which the body holds records and categories of records held on each subject by Emms & Emms Properties**

| Subjects on which a Business holds records | Categories of records                    |
|--------------------------------------------|------------------------------------------|
| Strategic Documents, Plans, Proposals      | Strategic Plan, Annual Performance Plan. |

| Subjects on which a Business holds records | Categories of records                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Companies Act Records                      | <ul style="list-style-type: none"> <li>✓ All trust deeds / Documents of Incorporation / Index of names of Directors / Memorandum of Incorporation</li> <li>✓ Minutes of meetings of the Board of Directors / Shareholders / Proxy forms /</li> <li>✓ Share certificates/Register and other statutory registers</li> <li>✓ Records relating to the appointment of:</li> <li>✓ Auditors / Directors / Public Officer / Secretary</li> <li>✓ Resolutions / Special Resolutions</li> </ul>                                                                                                                                                         |
| Income Tax Records                         | <ul style="list-style-type: none"> <li>✓ VAT</li> <li>✓ PAYE Records- Documents to employee's income tax &amp; Payments made to SARS on behalf of employees</li> <li>✓ Regional Services Levies / Skills Development Levies / UIF / Workmen's Compensation</li> </ul>                                                                                                                                                                                                                                                                                                                                                                          |
| Financial Records                          | <ul style="list-style-type: none"> <li>✓ Annual Financial Reports / Statements</li> <li>✓ Banking details and bank accounts / Statements / Accounting &amp; Banking Records / Paid Cheques</li> <li>✓ Debtors / Creditors statements &amp; invoices / Reconciliations</li> <li>✓ Policies and procedures</li> <li>✓ Rental Agreements / Asset Registers;</li> <li>✓ Tax Returns / Audit reports</li> <li>✓ Risk management frameworks / plans.</li> <li>✓ Standard Terms and Conditions for supply of services and products</li> <li>✓ Contractor, client and supplier agreements</li> <li>✓ Lists of suppliers, products, services</li> </ul> |
| AUTHORITY & Training Records               | <ul style="list-style-type: none"> <li>✓ FFC's / Payments to AUTHORITY</li> <li>✓ Outdoor advertising application and stickers for boards</li> <li>✓ Training Manuals / Records</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

## 7. Processing of personal information

### 7.1. Purpose of Processing Personal Information private information: for the purpose of Sales and Rental documentation

*We only collect the minimum amount of information that is relevant to the purpose. If you interact with us on the internet, the personal information we collect depends on whether you just visit our website or, require our services. If you visit our website, your browser transmits some data automatically, such as your browsing times, the data transmitted and your IP address.*

- ☐ *If you use our services, personal information is required to fulfil the requirements of that service. (Including FICA documents, when applicable)*
- ☐ *We usually collect only name and contact details, financial qualification (if completed by you), with property needs and requirement when we assist a buyer in finding a property.*
- ☐ *While doing a price estimation to place a property on the market, we need the basic info and will be able to source the property info from the deeds office systems (CMA).*

□ To assist selling the property we need to have basic personal info and financial info to know if the sellers will be able to sell the property, cancel the bond, pay all fees, and move to another property.

**7.2. Description of the categories of Data Subjects and of the information or categories of information relating thereto**

| <b>Categories of Data Subjects</b>         | <b>Personal Information that may be processed</b>                                                                                                                                                                                                                                                    |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sellers / Purchasers / Landlords / Tenants | Name, Surname, And Maiden Name<br>Identification Number/S<br>Married/Single Status.<br>E-Mail Address<br>Physical / Postal Address / Erf Number / Complex Details<br>Telephone Number/S<br>Financial & Banking Details (For Bond Qualification - Buyers And Bond Cancellations -Sellers And Rentals) |
| Service Providers                          | Names, Registration Number, Vat Numbers, Address, Trade Secrets And Bank Details                                                                                                                                                                                                                     |

**7.3. The recipients or categories of recipients to whom the personal information may be supplied**

| <b>Category of personal information</b>                                                                                                                                                                                                                                                              | <b>Recipients or Categories of Recipients to whom the personal information may be supplied</b>                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Identity number and names, for criminal checks                                                                                                                                                                                                                                                       | South African Police Services                                                                                                                                                                              |
| Qualifications, for qualification verifications                                                                                                                                                                                                                                                      | South African Qualifications Authority                                                                                                                                                                     |
| Credit and payment history, for credit information                                                                                                                                                                                                                                                   | Credit Bureaus                                                                                                                                                                                             |
| Name, Surname, And Maiden Name<br>Identification Number/S<br>Married/Single Status.<br>E-Mail Address<br>Physical / Postal Address / Erf Number / Complex Details<br>Telephone Number/S<br>Financial & Banking Details (For Bond Qualification - Buyers And Bond Cancellations -Sellers And Rentals) | Colleague's Or Other Property Practitioner<br>Business,<br>Attorneys,<br>Bond Consultants,<br>Compliance Inspectors,<br>Homeowner Association,<br>Trustees,<br>In Some Cases, Public Or Legal Authorities. |

#### 7.4. Planned transborder flows of personal information

| Type of personal information                                                                                                                                                                                                                                                                                   | Transborder flows / storage                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Name, Surname, And Maiden Name<br>Identification Number/S<br>Married/Single Status.<br>E-Mail Address<br>Physical / Postal Address / Erf Number / Complex Details<br>Telephone Number/S<br>Financial & Banking Details (For Bond Qualification - Buyers And Bond Cancellations -Sellers And Rentals)<br>Photos | One Drive: Cloud Storage                                                                                                                         |
| If there is an international component to the work which we are doing while selling / letting                                                                                                                                                                                                                  | Personal information will be protected in this foreign country, and we will endeavour to assist you finding their countries procedures and laws. |

#### 7.5. General description of Information Security Measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information

*We restrict, secure, and control all our information against unauthorised access, interference, modification, damage, loss, or destruction; whether physical or electronic.*

- ☐ *We will do a safety and security risk assessment from time to time to ensure we keep up with*
- ☐ *I am informed / trained to be compliant with POPI Act, and this training will be ongoing and up to date.*
- ☐ *We do everything we can to prevent personal information from falling into unauthorized hands.*
- ☐ *Our business premises where records are kept must remain protected by access control, burglar alarms and armed response.*
- ☐ *All our laptops, phones and computer network are protected by passwords which we changed on a regular basis.*
- ☐ *We are using Outlook 365 which comply with industry standard security safeguards and meet the General Data Protection Regulation (GDPR), which is standard in the European Union. we have firewalls and use Avast Internet Security.*
- ☐ *We are as small Business, working alone.*
- ☐ *If there were a data breach, we will determine the source, neutralise it and prevent the re-occurrence of such a data breach.*
- ☐ *When we make use of an external operator our principal (responsible party) will, in terms of a written contract between our Property Practitioner Business and the operator, ensure that the operator establishes and maintains the required security measures.*
- ☐ *The operator must advise immediately if there is the possibility that personal data has been accessed or acquired by any unauthorized person.*

- ☐ *The Data Subject will be advised via e-mail or in writing immediately if it is suspected that their personal information has been access by unauthorized persons. Sufficient information will be provided to allow the Data Subject to put measures in place to safeguard themselves against potential consequences of the security compromise.*
- ☐ *The Information Regulator will be informed in the event of a security breach where personal information could be compromised. It is the duty of the Principal to ensure this process is followed.*

## **8. Availability Of The Manual**

8.1. A copy of the Manual is available-

8.1.1. on [www.emmsandemms.co.za](http://www.emmsandemms.co.za);

8.1.2. office of Emms & Emms Properties for public inspection during normal business hours;

8.1.3. to any person upon request and upon the payment of a reasonable prescribed fee; and

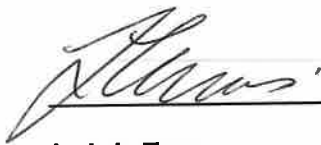
8.1.4. to the Information Regulator upon request.

A fee for a copy of the Manual, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made.

## **Updating Of The Manual**

The principal of Emms & Emms Properties will on a regular basis update this manual.

**Issued by**



**Leigh Emms**

*Principal*