



MANUAL ON THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000 AND THE PROTECTION OF PERSONAL INFORMATION ACT, 2013

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OVERVIEW

The South African Revenue Service (SARS) obtain and hold a substantial amount of information gathered in the course of its primary function of collecting national revenue and of its supporting business operations. This information is of interest to the people it affects directly or indirectly, whether they are taxpayers, traders, business partners, employees or data subjects in general. It is also of interest to academics, researchers, statisticians, competitors, litigants, organs of state, media and the curious.

In order to ensure that the fullest possible disclosure is made to SARS by taxpayers and traders, the confidentiality provisions in the legislation SARS administers provide that taxpayer and trader information is confidential and is not subject to disclosure, except under limited circumstances. The Promotion of Access to Information Act, Act No. 2 of 2000 (PAIA), reinforces the confidentiality of this information by providing that it must not be disclosed in terms of the Act, except to the person to whom it relates or that person's authorised representative or if the disclosure of the record is in the public interest as contemplated in section 46 of PAIA.

In many instances, it might not be necessary to make a formal request in terms of PAIA as most of the information is automatically available from the SARS website at www.sars.gov.za, the SARS Contact Centre on 0800 00 7277 or from any local SARS office.¹ Further, in certain instances the laws administered by SARS entitle owners of records access to their information without the need to resort to PAIA processes. Where it becomes necessary to lodge a PAIA request, the procedure to lodge a request and timeframes to deal with requests are outlined in the relevant paragraphs of this Manual.

This is the eighth edition of SARS' PAIA Manual which replaces the seventh edition issued in October 2021. If you have any problems or difficulties in using this Manual, please do not hesitate to contact SARS delegated and designated Deputy Information Officers.

¹ See paragraph 12 of this Manual

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1. PURPOSE OF PAIA/POPIA MANUAL

The purpose of this Manual is primarily to-

- 1.1 provide description of SARS organisational arrangements and associated functions;
- 1.2 enlist relevant contact details of SARS officials who will assist the public with access to records they intend to access;
- 1.3 inform the public about remedies available to them when aggrieved by certain decisions of SARS regarding their request for access to records;
- 1.4 provide an understanding to the public regarding process and procedure to access records held by SARS;
- 1.5 describe the services provided by SARS to the public and how to gain access to those services;
- 1.6 inform the public of the nature of records which may already be automatically available at SARS without the need for submitting a formal PAIA request;
- 1.7 describe arrangements available for public involvement in policy formulation and legislative process;
- 1.8 inform the public if SARS will process personal information, including:
 - a) the purpose of processing of personal information;
 - b) the description of the categories of data subjects and of the information or categories of information relating thereto;
 - c) recipients or categories of recipients to whom the personal information maybe supplied;
 - d) planned transborder flows of personal information; and

- e) a general description allowing a preliminary assessment of the suitability of the information security measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information which is to be processed.

2. DEFINITIONS

- 2.1 **“Access fee”** means a fee prescribed for the purposes of section 22(6) or 54(6) of PAIA;
- 2.2 **“Data Subject”** means the person to whom personal information relates;
- 2.3 **“Deputy Information Officer”** means the designated and delegated individual in SARS responsible for assisting the Commissioner for SARS with PAIA and POPIA duties and responsibilities;
- 2.4 **“Guide”** means the Information Regulator’s PAIA Guide, as amended, on how to use PAIA by any person who wishes to exercise any right contemplated in PAIA and the Protection of Personal Information Act, Act No. 04 of 2013 (POPIA), as contemplated in section 10 of PAIA;
- 2.5 **“Information Officer”** in relation to SARS means the Commissioner for SARS;
- 2.6 **“Information Regulator”** means the Information Regulator established in terms of section 39 of POPIA;
- 2.7 **“Personal information”** means information relating to an identifiable natural person, including, but not limited to information listed in section 1 of PAIA and POPIA respectively.
- 2.8 **“Record”**, or in relation to SARS means any recorded information regardless of form or medium in the possession or under the control of SARS whether or not it was created by SARS

- 2.9 **“Requester”** means any person making a request for access to a record that is under the control of SARS;
- 2.10 **“Responsible Party”** means SARS or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information;
- 2.11 **“Third Party”** means any natural or juristic person other than the requester or such party acting on behalf of the requester, or SARS itself;
- 2.12 **“Transfer”**, in relation to a record, means transfer in terms of section 20 (1) or (2), and “transferred” has a corresponding meaning;

3. SARS ESTABLISHMENT

SARS was established in terms of section 2 of the South African Revenue Service Act, Act No. 34 of 1997 (SARS Act) as an organ of state within the public administration, but as an institution outside the public service.

4. SARS ORGANISATIONAL ARRANGEMENT

- 4.1 In terms of section 6 of the SARS Act, the Commissioner for SARS is appointed by the President of the Republic and holds office for an agreed term not exceeding 5 (five) years which is renewable.
- 4.2 Below is the link to organisational arrangement of SARS as it currently exists, and description thereof ***“as at the date of this Eight Issue of the Manual”***:

<https://www.sars.gov.za/organisational-arrangements-2025/>

- 4.3 The following constitutes some of the Committees that have been established by the Commissioner:

a) Enterprise Committees

- (i) Executive Committee (Exco);

- (ii) Strategic Committee (STRATCO);
- (iii) Executive Management Committee (e-MANCO);
- (iv) National Operations Committee (NOC);
- (v) Strategic People Committee (SPC);
- (vi) Enterprise Governance, Risk and Compliance Committee (EGRC);
- (vii) Compliance Risk Committee (CRC).

b) Enterprise Forums

- (i) Standard Operations (Regions) Directors Forum;
- (ii) Segmented Operations Forum;
- (iii) Customs and Excise Forum;
- (iv) Audit and Investigations Forum;
- (v) Prevention and Dispute Resolution Forum;
- (vi) Executive Leadership Development Forum;
- (vii) National Management Forum;
- (viii) Women in Leadership forum;
- (ix) SARS Junior Board; and
- (x) Gender Equality and People with Disabilities (GEPwD) Forum.

c) Legislative

- (i) National Bid Adjudication Committee (NBAC);
- (ii) Health & Safety Committee;
- (iii) National Employment Equity & Workplace Skill Development;
- (iv) National Consultative Forum;
- (v) National Bargaining Forum; and
- (vi) Audit and Risk Committee (ARC).

4.4 Advisory Committees

In terms of section 11 of the SARS Act, the Minister of Finance may appoint specialist committees to advise the Commissioner and the Minister on any matter concerning the management of SARS's resources, including asset management, human resources and information technology.

5. CONTACT DETAILS OF THE INFORMATION OFFICER AND DEPUTY INFORMATION OFFICERS

The Commissioner is the Information Officer for SARS and has designated Deputy Information Officers and delegated them powers and duties conferred or imposed to him/her in terms of PAIA and POPIA. SARS Corporate Legal Services is responsible on a day-to-day basis to deal with requests and/or complaints made against SARS in terms of PAIA and POPIA. If you wish to make a request for access to SARS' records in terms of PAIA or POPIA, you should complete the relevant prescribed forms referred to in this Manual and submit to the physical address and/or email address listed below:

Contact details			
1	Information Officer, Commissioner for SARS	Physical Address Lehae la SARS	paia@sars.gov.za
2	Deputy Information Officers	299 Bronkhorst Street	(012) 422 4000
	Oscar Mosito	Nieuw Muckleneuk	
	Siyabonga Nkabinde	Pretoria	

6. SARS' OBJECTIVES

The objectives of SARS are the efficient and effective:

- a) collection of revenue; and
- b) control over the import, export, manufacture, movement, storage or use of certain goods.

7. SARS' FUNCTIONS

- 7.1 SARS is the only organ of state that is entrusted with the mandate to enforce legislation concerning the collection of revenue as defined in section 1 of the SARS Act. In terms of section 4 of the SARS Act, SARS must in order to achieve its objectives:

- a) secure the efficient, effective and widest possible enforcement of various legislation administered by the Commissioner for SARS that are listed in Schedule 1 of the SARS Act; and
- b) advise the Minister of Finance on:
 - (i) all matters concerning revenue;
 - (ii) the exercise of any power or the performance of any function assigned to the Minister or any other functionary in the national executive in terms of the legislation referred to above; and
- c) advise the Minister of Trade and Industry on matters concerning the control over the import, export, manufacture, movement, storage or use of certain goods.

7.2 In light of the above, SARS' vision is to build a smart, modern SARS with unquestionable integrity that is trusted and admired by the Government, the public, as well as our international peers. This vision is supported by strategic intent to develop and administer a tax and customs system based on voluntary compliance, and where required, enforce responsibly and decisively. In support of strategic intent, there are nine (9) strategic objectives which will enable SARS to achieve its goal.

7.3 SARS' mission is to optimise revenue yield, facilitate trade and enlist new tax contributors by promoting awareness of the obligation to voluntarily comply with South African tax and customs laws, and providing a quality service that is responsive to the needs of the public.

8. SARS POWERS

8.1 In terms of section 5 of the SARS Act, SARS may do all that is necessary or expedient to perform its functions properly, including to:

- a) determine its own staff establishment, appoint employees and determine their terms and conditions of employment in accordance with section 18;

- b) bargain collectively with the recognised trade unions representing SARS employees;
- c) obtain the services of any person, including any state department, functionary or institution, to perform any specific act or function;
- d) acquire or dispose of any right in or to movable or immovable property which may include ownership;
- e) open and operate on its own bank accounts;
- f) insure itself against any loss, damage, risk or liability;
- g) perform any specific act or function within its competence on behalf of any other person, including any state department, functionary or institution;
- h) impose fees or charges when performing an act or function in terms of paragraph (g) above;
- i) perform legal acts, or institute or defend any legal action in its own name;
- j) engage in any activity, whether alone or together with other organisations in the Republic or elsewhere, to promote proper, efficient and effective tax administration, including customs and excise duty administration; and
- k) do anything that is incidental to the exercise of any of its powers.

9. RESPONSIBILITIES OF THE COMMISSIONER FOR SARS IN TERMS OF THE SARS ACT

9.1 The Commissioner for SARS is:

- a) is responsible for the performance by SARS of its functions;
- b) takes all decisions in the exercise by SARS of its powers;

- c) performs any function and exercises any power assigned to the Commissioner in terms of any legislation or agreement between SARS and another organ of state or institution.

9.2 As chief executive officer, the Commissioner for is responsible in particular for:

- a) the formation and development of an efficient administration;
- b) the organisation and control of the staff;
- c) the maintenance of discipline; and
- d) the effective deployment and utilisation of staff to achieve maximum operational results.

9.3 As accounting authority, the Commissioner for SARS is responsible for:

- a) all income and expenditure of SARS;
- b) all revenue collected by SARS;
- c) all assets and the discharge of all liabilities of SARS; and
- d) the proper and diligent implementation of the Public Finance Management Act, 1999.

10. SARS' SERVICES

10.1 The services SARS provides are generally aimed at promoting voluntary compliance² and knowledge of revenue legislation. For SARS, compliance means the degree to which taxpayers and traders fulfil their tax obligations (i.e. registration, filing, declaration, and payment) accurately and on time, as required by the law. Accordingly, the following 3 (three) pillars support SARS'

² Voluntary compliance refers to society's fulfilment of its obligations without being prompted by SARS to do so

compliance philosophy:

- a) voluntary compliance will prevail when everyone is aware of their tax obligations (provide clarity and certainty);
- b) taxpayers will comply when it is easy and less costly to do so (make it easy); and
- c) a credible threat of detection and consequences will deter non-compliance (detect tax evasion and enforce tax law).

10.2 Information and assistance are available from SARS offices and SARS website at www.sars.gov.za.

10.3 SARS provides services to assist taxpayers and traders in their dealings with other tax and customs administrations, *inter alia*, in the following instances:

- a) SARS administers Certificates of Origin and permits in terms of which exporters may gain access to preferential tariff treatment in terms of the Southern African Development Community Protocol on Trade, the Trade Development and Co- operation Agreement between South Africa and the European Union, and the United States of America's African Growth and Opportunity Act. The requirements for participation in these programmes are complex and should be obtained from SARS branch offices dealing with customs.
- b) SARS administers Certificates of Status, which are obtainable from the foreign tax authority or refund administrator from whom a VAT refund is desired and are certified by SARS branch offices dealing with VAT.
- c) VAT refunds in respect of foreign visitors to South Africa are handled by the VAT Refund Administrator procured by SARS through public procurement processes. Details of the VAT refund system are available and contact details are available on SARS website www.sars.gov.za. Contact details for the VRA are as follows:

- (i) **For Potential Qualifying Purchasers:**
Telephone number: (010) 0256 371
- (ii) **Email:**
info@vatrefundagency.co.za;
support@vatrefundagency.co.za
- (iii) **Website:**
<https://vatrefundagency.co.za/>
- (iv) For VAT refund agency locations please refer to <https://vatrefundagency.co.za>

11. PUBLIC INVOLVEMENT IN POLICY FORMULATION AND LEGISLATIVE PROCESS

11.1 Although SARS is responsible for drafting certain revenue legislation, this is done under the policy direction of the Minister of Finance and, in certain cases, the Minister responsible for Trade, Industry and Competition. Accordingly, the manuals issued by National Treasury and the Department responsible for Trade, Industry and Competition in terms of PAIA should also be consulted with regard to public involvement in the formulation of policy.

11.2 Primary legislation

- a) Depending on the nature and complexity of proposed legislation, the process of enacting revenue or tax levying legislation may be preceded by a discussion paper setting out a proposed approach and calling for public comments. This step may be followed or replaced by the release of draft legislation for public comment.
- b) National Treasury, SARS and the Parliamentary Committees call for public comments on the draft legislation, either by way of written submissions or oral presentations. Once the informal briefing has taken place, informal hearings are held by the Parliamentary Committees during which oral presentations are heard. At the end of these hearings, SARS and National Treasury prepare a response document indicating which representations have been accepted, as well as identifying which

comments were not accepted and providing reasons thereof.

- c) The proposed legislation is then tabled by the Minister of Finance and the formal Parliamentary process commences.

11.3 **Subsidiary legislation, interpretation notes etc.**

Depending on the nature and complexity of the proposed legislation, interpretation notes etc., it may be preceded by consultation with industry groupings, professional associations and other interested parties, or the release of a draft for public comments.

11.4 **General**

SARS welcomes representations regarding its policies and procedures. These representations should be sent to either of the following addresses for the attention of the Commissioner for SARS:

Physical Address	Postal Address
Lehae la SARS 299 Bronkhorst Street Nieuw Muckleneuk PRETORIA 0181	SARS Private Bag X923 PRETORIA 0181

12. **SARS OFFICES DETAILS**

SARS offices consist of the National (Head) Office situated in Nieuw Muckleneuk, Brooklyn (Pretoria), branch offices situated across 9 provinces and customs and excise offices located at various ports of entries (i.e. border posts, harbours, and airports) including inland customs and excise offices. To access the location and contact details of SARS offices, click links below:

Head Office	https://www.sars.gov.za/contact-us/head-office/
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Branch Offices	https://www.sars.gov.za/contact-us/branch-finder/
Customs Offices	https://www.sars.gov.za/customs-and-excise/customs-offices-and-contacts/
Excise Offices	https://www.sars.gov.za/customs-and-excise/excise/excise-offices/

13. DUTIES AND RESPONSIBILITIES OF SARS INFORMATION OFFICER AND DEPUTY INFORMATION OFFICERS

13.1 Under PAIA

- a) encouraging and ensuring compliance with PAIA;
- b) creating, maintaining and updating PAIA/POPIA Manual for SARS;
- c) evaluating and responding to requests for access to information submitted and/or transferred to SARS in terms of PAIA;
- d) assisting requesters, where necessary, to enable them to comply with PAIA procedural requirements when submitting requests to SARS;
- e) submitting annual reports to the Information Regulator as contemplated in section 32 of PAIA;
- f) responding to PAIA/POPIA complaints referred to the Information Regulator by requesters;
- g) developing, monitoring, maintaining and making available SARS PAIA/POPIA Manual; and
- h) ensuring that upon request by any person, copies of the manual are provided to that person upon the payment of a fee to be determined by the Information Regulator from time to time.

13.2 Under POPIA

- a) ensuring compliance by SARS with the provisions of POPIA;

- b) encouraging compliance by SARS with the conditions for the lawful processing of personal information;
- c) responding to complaints submitted to the Information Regulator against SARS;
- d) dealing with POPIA requests;
- e) working with the Information Regulator in relation to investigations conducted in relation to SARS for purposes of obtaining prior authorisations to process information that includes unique identifiers, criminal behaviour or unlawful or objectionable conduct on behalf of third parties, information for purposes of credit reporting, transfer of special personal information or personal information of children as contemplated in Chapter 6 of POPIA;
- f) developing, implementing and monitoring SARS compliance framework;
- g) ensuring that a personal information impact assessment is done to ensure that adequate measures and standards exist in order to comply with the conditions for the lawful processing of personal information;
- h) developing, monitoring, maintaining and making available a PAIA/POPIA Manual prescribed in section 14 of PAIA;
- i) developing internal measures and adequate systems to process requests for access to information;
- j) ensuring that internal awareness sessions are conducted regarding the provisions of POPIA, regulations made in terms of POPIA, codes of conduct, or information obtained from the Information Regulator; and

- k) ensuring that upon request by any person, copies of the manual are provided to that person upon the payment of a fee to be determined by the Regulator from time to time.

14. SARS RECORDS

14.1 Certain records are held or obtained by SARS in the execution of its mandate. However, in certain instances records are received from employees, the public, organs of state, international organisations, and private bodies in accordance with exchange of information agreements, or in the execution of SARS functions and activities or in terms of the law.

14.2 The categories of records held or obtained by SARS are summarily classified in the manner listed on the link below:

<https://www.sars.gov.za/category-of-sars-records/>

14.3 As an organ of state responsible for the collection of national revenue, the broad SARS' records fall into the following four broad categories:

a) Taxpayer information

These records include tax returns, bills of entry, declarations, assessments, financial statements, financial or other information about taxpayers that are obtained or held by SARS for the purposes of enforcing legislation concerning the collection of revenue as defined in section 1 of the SARS Act. In this regard, these records would involve information provided by a taxpayer or obtained by SARS in respect of taxpayer or traders from various sources, including biometric information.

b) SARS Confidential Information

SARS confidential information as defined in section 68 of the Tax Administration Act, Act No. 28 of 2011 broadly means and includes:

- (i) personal information about a current or former SARS official, whether deceased or not;
- (ii) information subject to legal professional privilege;

- (iii) information supplied in confidence by a third-party, another state or an international organization;
- (iv) information related to investigations and prosecutions described in section 39 of PAIA;
- (v) information related to the operations of SARS including an opinion, advice, report, account of a consultation or discussion where such information relates to the formulation of policy or the performance of a duty conferred by law;
- (vi) information which, if disclosed, could prejudice the economic interests of the Republic;
- (vii) information relating to the security of SARS buildings, property, structures or systems; and
- (viii) information relating to the verification or audit selection procedure or method used by SARS.

c) Personnel information

These records include information relating to staff recruitment such as contracts of employment, evaluative records and salary information of all personnel in SARS whether employed on a permanent basis or short-term contract basis. In processing this information, SARS does so to comply with labour legislation such as Labour Relations Act, 1995, Employment Equity Act, 1998, Basic Conditions of Employment Act, 1997, etc.

d) Business records

- (i) These records include SARS' financial records on own account and revenue administered account, contracts, minutes of various committees, operational records, operational instructions and manuals, tax statistics, tenders and trade statistics.
- (ii) SARS publishes a broad range of informative material both in print and on its website at www.sars.gov.za. This includes interpretation notes and guides to the customs and tax systems.
- (iii) SARS publishes trade statistics for South Africa and the BLNS (Botswana, Lesotho, Namibia and Swaziland) countries on a monthly basis.
- (iv) National Treasury publishes revenue statistics on a monthly basis.

- (v) Taxpayers may obtain personal information about themselves such as a copy of their own tax returns, assessments, statement of account and similar records, including records submitted to SARS by the taxpayer or on the taxpayer's behalf. SARS will provide such information on request to the office where the records are held. A fee may be charged for copying of records depending on the volume requested.

15. RECORDS AUTOMATICALLY AVAILABLE

- 15.1 SARS publishes a broad range of informative material both in print and on its website at www.sars.gov.za. This includes SARS Annual Reports, SARS Annual Performance Plans, SARS Strategic Plans, interpretation notes, policies, procedures and guides regarding tax, customs and excise
- 15.2 SARS publishes trade statistics for South Africa and the BLNS (Botswana, Lesotho, Namibia and Swaziland) countries on a monthly basis. The National Treasury publishes revenue statistics on a monthly basis.
- 15.3 Taxpayers may obtain personal information about themselves such as a copy of their own tax returns, assessments, statement of account and similar records, including records submitted to SARS by the taxpayer or on the taxpayer's behalf. SARS will provide such information on request to the office where the records are held. A fee may be charged for the copying of records depending on the volume requested.
- 15.4 SARS website also contains a list of tenders advertised and awarded.

16. PAIA PROCEDURE ON HOW TO OBTAIN ACCESS TO RECORDS HELD OR OBTAINED BY SARS

- 16.1 Section 18(1) of PAIA requires that a request for access to a record must be made in a prescribed form. **Form 2 of Annexure A** to the Regulations relating

to the PAIA, 2021, which came into effect on or after 27 August 2021³ is the prescribed form in terms of section 18(1) of PAIA.⁴ Section 23(1) of POPIA also deals with the procedure to request access to personal information. Manner of access to personal information in terms of section 23(1) POPIA⁵ should be in accordance with section 18 of PAIA. To access the request for access to record form, click link below:

<https://infoeregulator.org.za/wp-content/uploads/2020/07/InfoRegSA-PAIA-Form02-Reg7.pdf>

16.2 For purposes of this Manual, a requester is any person making a request for access to a record that is under the control of SARS and in this regard, PAIA distinguishes between 2 (two) types of requesters, i.e. Personal Requester⁶, and Other Requester⁷.

16.3 The steps below are outlined to ensure that your request for access to records held or obtained by SARS is dealt with as quickly and efficiently.

16.4 Preliminary steps

- a) Consider whether the record you wish to request relates to information about SARS or information SARS is most likely to hold or have under its control.

³ <https://www.justice.gov.za/legislation/notices/2021/20210827-gg45057gon757-PAIAregulations.pdf>

⁴ Regulation 17(1) of the 2021 PAIA Regulations **repealed** all forms previously prescribed under regulations published under Government Notice No. R. 187 of 15 February 2002, as amended by Government Notices Nos R. 1244 of 22 September 2003, R. 990 of 13 October 2006, R. 466 of 1 June 2007 and R. 307 of 1 April 2021.

⁵ Section 23(1) of POPIA provides that a data subject, having provided adequate proof of identity, has the right to –

- a) Request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
- b) Request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had access to the information.

⁶ “**Personal Requester**” means a requester who is seeking to access a record containing personal information about that requester.

⁷ “**Other Requester**” means any requester other than a personal requester.

- b) Requests for records that are most likely to be held or be under the control of another body should be directed to that body. Requests to SARS for records that it might not possibly hold or have under its control may slow down its responses and will generally have to be referred to another body, which may delay the response to your request.
- c) Review the information available from the SARS website at www.sars.gov.za, or from your local SARS office to see if it will satisfy your intended request.
- d) Bear in mind that SARS must deny a request for a record pertaining to a third party if, *inter alia*, it contains information that SARS holds or has obtained for the purposes of enforcing revenue legislation. However, SARS may grant access to such a record if:
 - (i) the disclosure of the record would (not might) reveal evidence of a substantial contravention of, or failure to comply, with the law; and
 - (ii) the public interest in the disclosure of the record clearly outweighs the harm contemplated in any of the relevant grounds⁸ for refusal of access to records.
- e) SARS may refuse a request for access to a record if it constitutes SARS confidential information or a record that may or must be refused in terms of one of the grounds for refusal in terms of PAIA.⁹
- f) Consider whether a request for reasons for an administrative action should not rather be made in terms of the Promotion of Administrative Justice Act, Act No. 3 of 2000 ("PAJA") as the reasons may not yet have taken the form of a record of information as defined.
- g) Access to a record containing personal information about a requester is excluded from PAIA in terms section 11(2) thereof. Notwithstanding the exclusion, a request for access to personal information must be made in

⁸ Section 34 (1), 35(1), 36 (1), 37 (1) (a) or (b), 38 (a) or (b), 39 (1) (a) or (b), 40, 41 (1) (a) or (b), 42 (1) or (3), 43 (1) or (2), 44 (1) or (2) or 45 PAIA

⁹ See paragraph 16.9(f)(ii), (iii) and (iv) of this Manual

16.5 Completing the request form

- a) If you are satisfied that you still wish to make a request for records, Regulation 7(1) of PAIA requires that a request for access to record must be made on a form that corresponds substantially with **FORM 2 (Request for access to a record form, Annexure A to the PAIA Regulations)**. The request form must be sent to paia@sars.gov.za or at the address listed in paragraph 5 of this Manual for the attention of the Information Officer and/or Deputy Information Officer listed therein.
- b) The request for access to a record form is available on the Information Regulator's website and at the offices of the Information Regulator during office hours. To access the request for access to record form, click link below:

<https://inforegulator.org.za/wp-content/uploads/2020/07/InfoRegSA-PAIA-Form02-Reg7.pdf>
- c) You may also request or obtain copy of the request for access to record form from SARS Deputy Information Officers by emailing paia@sars.gov.za or visiting SARS Head Office, 299 Bronkhorst street, Lehae la SARS, Corporate Legal Services Unit.
- d) The prescribed **FORM 2** must be completed with sufficient particularity to at least enable SARS to identify:
 - (i) the identity of the requester;
 - (ii) particulars of record(s) requested;
 - (iii) type of record;
 - (iv) form of access;
 - (v) postal address of the requester in the Republic; and
 - (vi) manner access must be granted.

¹⁰ See paragraph 21.6 of this Manual

- e) An oral request for access to a record(s) may be made, if the requester does not have a formal education or has a disability. The Deputy Information Officer will assist the requester to complete the prescribed form on behalf of such requester and provide him/her with a copy of the completed form.
- f) The requester must indicate whether the requested record(s) is preferred in any particular language. If the record exists in the in the language that the requester prefers, SARS will provide access in that language. However, if the records does not exist in the language so preferred or the requester has no preference or has not indicated a preference, SARS will give access in any language the record exists in.
- g) If you have not received an acknowledgement of receipt of your request within 14 days, please send follow-up email at paia@sars.gov.za or contact the SARS switchboard at (012) 422 4000 and ask to be transferred to one of the Deputy Information Officers for assistance or escalate to oocregistration@sars.gov.za.
- h) Some important points to remember when completing your request form:
 - (i) Each section of the form contains instructions that should be followed to improve the likelihood of your request being granted with minimal delay being experienced.
 - (ii) Where a personal request is made for records relating to an organisation/company, the written authorisation/mandate of the organisation's public officer and/or company resolution must be provided. Further, the request must be accompanied by a letter or power of attorney or resolution indicating the authority to request records on behalf of the organisation.
 - (iii) If you are requesting records on behalf of another person, you must **provide a copy of the mandate** authorising you to act on behalf of that person.
 - (iv) To improve the likelihood of the request being responded to with minimal delay, when completing the request form, you must provide a detailed description of the records being requested to enable the

Information Officer or Deputy Information Officer to identify them accurately.

- (v) Where records requested may involve multiple years, specify the applicable period of the records under request.
- (vi) If you are experiencing difficulties in completing the request form or have a disability that prevents you from completing it, please do not hesitate to contact any of the Deputy Information Officers for assistance. He/she will be happy to assist you in completing the form, as well as sending you a written copy of the completed form where he/she has completed it on your behalf.

16.6 Notice to third parties

- a) If your request involves a request for access to a record that might be a record falling within the following categories, SARS is required to, within 21 days of receipt or transfer of request, take all reasonable steps to notify the third party to whom or which the record relates of the request:
 - (i) mandatory protection of privacy of a third party who is a natural person¹¹;
 - (ii) mandatory protection of certain records of SARS¹²;
 - (iii) mandatory protection of commercial information of a third party¹³;
 - (iv) mandatory protection of certain confidential information and protection of certain other confidential information of a third party¹⁴; and
 - (v) mandatory protection of research information of a third party and protection of research information of a public body¹⁵.
- b) The notification required must, *inter alia*, state that the third party may, within 21 days after the notification referred to in paragraph 16.6(a) above is received:
 - (i) make written or oral representations to the information officer why the request for access should be refused; or

¹¹ Section 34(1) PAIA

¹² Section 35(i) PAIA

¹³ Section 36(1) PAIA

¹⁴ Section 37(1) PAIA

¹⁵ Section 43(1) PAIA

- (ii) give written consent for the disclosure of the record to the requester.
- c) Upon sending the notice, SARS is required to inform the requester that a notice has been sent to the third party.

16.7 Decision pursuant to third party notification and representation process

- a) SARS is required to, as soon as reasonably possible but within 30 days after sending the notification to every third party as outlined in paragraph 16.6(a) and (b) above, notify the requester and third parties so notified who made representation or was located before decision is taken of its decision.
- b) In the event the decision is to grant access, SARS is required to:
 - (i) provide the third party with reasons for granting access, including PAIA provision relied upon;
 - (ii) inform the third party of the right to lodge a complaint with the Information Regulator within 30 days of receipt of SARS decision; and
 - (iii) inform the third party that the requester will be given access to the record after the expiry of 30 days from date of SARS decision unless a complaint to the Information Regulator is lodged within that period.
- c) In the event the third party fails to lodge a complaint with the Information Regulator as outlined in paragraph 16.7(b)(ii) and (iii) above, SARS will give the requester access to the record concerned.

16.8 Fees

- a) **Request fee**
 - (i) The request fee of R100.00 is payable by every requester, subject to exceptions outlined under paragraph 16(8)(c) below.
 - (ii) Request fee is not applicable to a record requested by a maintenance officer or maintenance investigator for purposes of a maintenance investigation or inquiry. The Deputy Information Officer will not further process your request until the request fee is paid.

b) **Access fee**

- (i) If the request is granted then an access fee is payable for:
- the reproduction of records and postage;
 - making copy of a record or a transcription of the content of a record;
 - for time in excess of 6 (six) hours to search and prepare the records for disclosure. Where the time to prepare the records for disclosure is likely to exceed six hours, a deposit not exceeding one third of the anticipated access fee may be required as a deposit.

c) **No access fee is payable-**

- (i) where access is requested for a personal record of yourself as the requester;
- (ii) if you are single and earn an income of less than **R14 712** per year after permissible deductions; and
- (iii) if you are married or have a life partner and earn a combined income of less than **R27 192** per year after permissible deductions.

d) You may pay the fees by via EFT or directly at **ABSA**. You may request from the Deputy Information Officer, the bank account details if payment will be effected by EFT or directly at the bank. Remember to cite **MAIN022 PAIA** as the payment reference number.

e) The requested records will only be made available once payment has been confirmed. Proof of payment must be sent to the contact details provided in paragraph 5 above. All payments must be in South African currency.

f) The fee structure applicable to PAIA requests is provided in **Annexure B** to the PAIA Regulations, link which is attached herein below:

<https://www.justice.gov.za/legislation/notices/2021/20210827-gg45057gon757-PAIAreulations.pdf>

16.9 Period to deal with PAIA/POPIA requests for access to a record held or obtained by SARS

- a) In terms of section 25(1) of PAIA, the Information Officer or Deputy Information Officer is required to make a decision on your request within 30 days of receipt of your request or as soon as is reasonably possible, failing which your request may be deemed to have been refused.
- b) The Information Officer or Deputy Information Officer will notify you of his decision within 30 days of receiving your request whether your request has been granted or refused. Access to records will be granted in the format requested or in the format that the records exist if the requested format is not available.
- c) Section 26 of PAIA prescribes the following instances where the period of 30 days referenced in section 25 of PAIA may be extended once for a further period of not more than 30 days:
 - (i) the request is for a large number of records or requires a search through a large number of records and compliance with the original period would unreasonably interfere with the activities of SARS;
 - (ii) the request requires a search for records in, or collection thereof from, a SARS office not situated in the same town or city as the office of the Information Officer or Deputy Information Officer and cannot reasonably be completed within the original period;
 - (iii) consultation among divisions of SARS or with another organ of state is necessary or desirable to decide upon the request and such decision-making process cannot reasonably be completed within the original period;
 - (iv) more than one of the circumstances contemplated in paragraphs 16.9(c)(i) to (iii) above exist in respect of the request making compliance with the original period not reasonably possible; or
 - (v) the requester consents in writing to such extension.
- d) The notification by SARS will indicate the period of extension, the reason

for the extension, the requesters right to complain to the Regulator or launch proceedings in court against the extension as the case may be.

- e) If the period has been extended for reasons prescribed in section 26 PAIA, the information officer or Deputy Information Officer must as soon as possible and within 30 days of first receiving the request inform the requester of that extension.
- f) You will be given access to a record if:
 - (i) you have complied with all procedural requirements in the PAIA relating to the request for access to that record, that is:
 - the request is properly made on the prescribed form;
 - you have furnished proof of authority to act on another's behalf, if you are not making the request on your own behalf;
 - the record you have requested is sufficiently described to enable the Information Officer or Deputy Information Officer to identify it;
 - you have paid the required fees; and
 - (ii) access to the record is not refused on one or more of the following grounds of refusal specified in the PAIA:
 - mandatory protection of privacy of a third party who is a natural person;
 - mandatory protection of certain records of SARS;
 - mandatory protection of commercial information of a third party;
 - mandatory protection of certain confidential information and protection of certain other confidential information of a third party;
 - mandatory protection of safety of individuals and protection of property;
 - mandatory protection of police dockets in bail proceedings and protection of law enforcement and legal proceedings;
 - mandatory protection of records privileged from production in legal proceedings;
 - defence, security and international relations of the Republic; economic interests and financial welfare of the Republic and

- commercial activities of public bodies;
- mandatory protection of research information of a third party and protection of research information of SARS;
- where a record contains operations of public bodies in circumstances which justify refusal to grant access;
- (iii) access will also be refused where the request is manifestly frivolous or vexatious; and
- (iv) SARS reserves the right to refuse access to records where the processing of the record will result in a substantial and unreasonable diversion of resources.

17. REMEDIES AVAILABLE IF PROVISIONS OF PAIA ARE NOT COMPLIED WITH OR IN RESPECT OF AN ACT OR FAILURE

17.1 Lodging a complaint with the Information Regulator

- a) Should you or a third party not be satisfied with the decision of the Information Officer or Deputy Information Officer to refuse access or the deemed refusal of your request and/or access is granted subject to unreasonable fees and/or access is granted in an unacceptable form or the extension of period to deal with the request, you are entitled in terms of section 77A(2)(c) of PAIA to lodge a complaint with the Information Regulator within the prescribed period of 180 days from receipt of SARS decision.
- b) The complaint referred to above must be submitted in the prescribed **PAIA Form 5 (section 77A PAIA read together with PAIA Regulation 10)** to the Information Regulator's email address PAIAComplaints@inforegulator.org.za or at the offices of the Information Regulator during working hours.
- c) The complaints form is available on the Information Regulator's website and at the offices of the Information Regulator during office hours. To access the complaints form, click link below:

- d) You may also request or obtain copy of the complaints form from SARS Deputy Information Officers by emailing paia@sars.gov.za or visiting SARS Head Office, 299 Bronkhorst street, Lehae la SARS, (Corporate Legal Services).
- e) The Information Regulator must as soon as reasonably practicable advise the complainant and SARS of the course of action it will take, namely to:
 - (i) Conduct full investigation of the complaint;
 - (ii) Refer the complaint to the Enforcement Committee; or
 - (iii) Decide to take no action on the complaint or, as the case may be, require no further action in respect of the complaint; or
 - (iv) to resolve the complaint through settlement or conciliation process.
- f) Section 77G(1) of PAIA dealing with investigation proceedings of the Information Regulator provides that for the purposes of the investigation of a complaint the Information Regulator has powers similar to those of the High Court in terms of section 80 of PAIA relating to the disclosure of records to it and non-disclosure of records by it.
- g) In terms of section 80(1) of PAIA, the Court is entitled to examine any record of SARS, and SARS may not withhold the records from the court on any grounds. The court to whom the records are availed for judicial peak may not disclose to any person, including the parties to the proceedings concerned.
- h) The Information Regulator when investigating a complaint has the following discretionary information gathering methods:
 - (i) communication by telephone, email or any other form of correspondence;
 - (ii) research, inspections in loco, surveys or questionnaires;
 - (iii) meetings with affected parties or persons reasonably believed to have information relevant to the investigation;

- (iv) appearance of a person in a hearing before the Information Regulator for purposes of obtaining or clarifying information, producing any document or giving evidence;
 - (v) obtaining records or documents relevant to the investigation which are in possession or under control of any person; and
 - (vi) conducting public enquiries to obtain relevant information on the subject matter.
- i) In the event the Information Regulator decide that a hearing is warranted, the parties to the dispute and any other person whose attendance is required shall be notified accordingly.
 - j) A requester or third party may only apply to a court for appropriate relief in terms of section 80 of PAIA after that requester or third party has exhausted the complaint procedure with the Information Regulator.

17.2 Application to Court regarding request for access to Personal Information

- a) If SARS fails to comply with the provisions of PAIA, the requester or any aggrieved person may, in accordance with section 78 of PAIA and PAJA, approach the Court with jurisdiction for appropriate relief.
- b) If after the complaint you are aggrieved by the decision of the Information Regulator, you can apply to the High Court for appropriate relief. The application to Court must be made within 180 days from the date when the requester receives notice of the decision. On hearing such an application, the Court may grant a just and equitable order including –
 - (i) confirming, amending or setting aside the decision that is the subject of the application;
 - (ii) requiring the Information Officer to take some action or to refrain from taking such action as the court considers necessary within the period mentioned in the order;
 - (iii) granting an interdict, interim or specific relief, a declaratory order or compensation; or costs.

18. RECORDS THAT CANNOT BE FOUND OR DO NOT EXIST

- 18.1 Requesters have the right to receive a response in the form of an affidavit or affirmation where records cannot reasonably be located.
- 18.2 Requesters also have the right to receive a response in the form of an affidavit or affirmation where requested records do not exist.
- 18.3 The affidavit or affirmation must outline the steps taken to locate the records.

19. DISPOSAL OF RECORDS

- 19.1 SARS reserves the right to lawfully dispose of certain records in terms of the National Archives and Record Service of South Africa Act, Act No. 43 of 1996.
- 19.2 Requesters will be advised whether a particular record has been disposed of where this is relevant to the records requested.

20. INFORMATION REGULATOR'S PAIA GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS THE GUIDE

- 20.1 The Information Regulator has, in terms of section 10(1) of PAIA, as amended, updated the PAIA Guide, as initially compiled by the SAHRC.
- 20.2 The purpose of the aforesaid Guide is to provide information that is needed by any person who wishes to exercise any right contemplated in PAIA and POPIA.
- 20.3 The Information Regulator's PAIA Guide will specifically assist a person, also called a data subject, on how to access his/her or its personal information in terms of section 23 of POPIA.
- 20.4 Any request for a Guide from the Information Regulator must be made in writing, by completing **FORM 1 (Request for a Copy of the Guide (PAIA Regulation 2))**.

- 20.5 The request form for copy of the Information Regulator's Guide is available on the Information Regulator's website and at the offices of the Information Regulator during office hours. To access the form, click link below:

<https://inforegulator.org.za/wp-content/uploads/2020/07/InfoRegSA-PAIA-Form01-Reg2.pdf>

- 20.6 Members of the public can also inspect or make copies, during normal working hours, of the Information Regulator's PAIA Guide at SARS Head Office, 299 Bronkhorst street, Lehae la SARS, (Corporate Legal Services), including the office of the Information Regulator.

21. PROCESSING OF PERSONAL INFORMATION AS ENVISAGED IN POPIA

21.1 Purpose of processing

- a) SARS processes personal information for purposes related to the functions or activities of SARS, *inter alia* for:
- (i) the avoidance of prejudice to the maintenance of the law by any organ of state, including the prevention, detection, investigation, prosecution and punishment of offences;
 - (i) enforcing legislation concerning the collection of revenue as defined in section 1 of SARS Act;
 - (ii) general business administration purposes such as processing of Personal Information for payroll processes, recruitment purposes, pension, medical aid, disciplinary action, training etc;
 - (iii) contractual obligations with suppliers and service providers;
 - (iv) investigating tax offences and employees misconduct;
 - (v) purposes of criminal and/or civil legal proceedings;
 - (vi) statistical or research purposes;
 - (vii) complying with obligations imposed by law;
 - (viii) communicating with Data Subjects by email, letter, telephone, SMS;
 - (ix) verifying and updating information at its disposal;
 - (x) assessment and processing of personnel related claims as well as tax related claims;

(xi) accounts and records keeping purposes;

(xii) registering visitors to SARS' premises.

21.2 SARS may process personal information of the following categories of Data Subjects, which include natural and juristic persons

- a) SARS generally process personal information relating to, but not limited to:

Type	Personal Information Processed by SARS
Natural persons	Names, physical and postal addresses, date of birth, tax related information, ID numbers, confidential correspondence, identifying numbers, email addresses, telephone numbers, medical information, criminal or employment details, job applicants details, biometric information, personal opinions, information relating to race, gender, sex, marital status, nationality of person, language, ethic, colour, disability of person, biometric information, information relating to education, Pension Fund records, Performance appraisals, disciplinary records, leave records, training records, remuneration and salary records, medical aid records, deductions from salaries, banking and financial records, Psychometric assessment reports, professional affiliations and reference; individuals captured by CCTV, access control registers and litigants.
Juristic persons	Names, contact details, physical and postal address, tax and customs related information which include taxpayer information, trader details and business details, identifying numbers, symbols, email addresses, telephone numbers, location information, unique identifiers, confidential correspondence, financial information, directors and shareholders details,

	legal opinions; information relating to service providers including their employees and/or taxpayers, SARS subsidiary company details including their directors and employee details,
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21.3 Recipients of Personal Information

- a) Regulatory bodies, statutory bodies and other organs of state;
- b) Law enforcement agencies;
- c) Other tax authorities;
- d) Judicial commissions of inquiry;
- e) Tax Ombud;
- f) Employees of SARS;
- g) Family and representatives of the person whose personal information SARS is processing;
- h) Suppliers and service providers to whom SARS has a written contractual relationship with requiring them to have access to Personal Information;
- i) Third party verification agencies and credit bureaus;
- j) Collections agencies;
- k) Banks and other financial institutions;
- l) Employers (public and private);
- m) Anyone making a successful application for access in terms of PAIA;

- n) Research and academic institutions;
- o) Employment and recruitment agencies;
- p) Medical aid schemes;
- q) Insurance service providers;
- r) Pension fund administrators;
- s) Trade unions; and
- t) Psychometric assessors

21.4 Planned or prospective trans-border flow of Personal Information processed by SARS in respect of the above categories of Data Subjects:

- a) SARS may transmit Personal Information across the borders of the Republic of South Africa to suppliers and service providers in accordance with written agreement concluded between SARS and relevant suppliers and service providers;
- b) Personal Information may be stored in data servers hosted outside the Republic of South Africa which have adequate or similar data protection laws as to POPIA;
- c) SARS may share Personal Information with foreign jurisdictions in terms of agreements concluded with such jurisdictions and/or in accordance with international obligations binding on SARS and/or Republic of South Africa;
- d) Further, SARS may transmit Personal Information across the borders of the Republic of South Africa under the following circumstances:
 - (i) With the data subject's consents to the transfer;
 - (ii) The transfer is necessary for the performance of a contract between the data subject and SARS;

- (iii) The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between SARS and a third party;
- (iv) The transfer is for the benefit of the data subject, and it is not reasonably practicable to obtain the consent of the data subject to that transfer; and if it were reasonably practicable to obtain such consent, the data subject would be likely to give it.

21.5 General description of information security measures

- a) SARS takes reasonable measures in accordance with its strategic objectives to:
 - (i) identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
 - (ii) establish and maintain appropriate safeguards against the risks identified;
 - (iii) regularly verify that the safeguards are effectively implemented; and
 - (iv) ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.
- b) SARS deploys up to date technology to safeguard confidentiality and ensure integrity of Personal Information under its control by taking appropriate reasonable technical measures to prevent:
 - (i) Loss of, damage to or unauthorized destruction of personal information.
 - (ii) Unlawful access to or processing of personal information
- c) SARS information security measures includes:
 - (i) Firewalls;
 - (ii) Encryptions;
 - (iii) Logical access control;
 - (iv) Oath of secrecy for employees, services providers and third parties
SARS may share information with;
 - (v) Physical access control;
 - (vi) Secure hardware and software;

- (vii) Confidentiality and data privacy clauses in agreements concluded with suppliers and service providers.

21.6 How to make a PAIA request for access to Personal Information (section 23 POPIA read with section 25 thereof)

- a) A data subject, has the right to request:
 - (i) whether or not SARS holds personal information concerning him/her/it (i.e. the Data Subject) or another data subject, provided in respect of the latter the requester has the legal authority to make such a request;
 - (ii) a record or a description of the personal information about the data subject himself/herself/itself held by SARS, including information about the identity of third parties, or categories of the third parties, who have, or have had access to the personal information concerning himself/herself/itself.
- b) The request for access to record must be made on a form that corresponds substantially with **FORM 2 (Request for access to a record form, Annexure A to the PAIA Regulations -)** and submitted to contact details listed in paragraph 5 above for the attention of the Information Officer and/or Deputy Information Officers. For PAIA Regulations, click below link:
- c) The request for access to a record form is available on the Information Regulator's website and at the offices of the Information Regulator during office hours. To access the request for access to record form, click link below:
<https://inforegulator.org.za/wp-content/uploads/2020/07/InfoRegSA-PAIA-Form02-Reg7.pdf>
- d) You may also request or obtain copy of the request for access to record form from SARS Deputy Information Officers by emailing paia@sars.gov.za or visiting SARS Head Office, 299 Bronkhorst street, Lehae la SARS, (Corporate Legal Services).

- e) The requester seeking access to a record containing personal information of the data subject must provide adequate proof of identity.
- f) Subject to the provisions of PAIA and POPIA, SARS will within a reasonable time, (at a prescribed fee, if any) in a reasonable manner and format and in a form that is generally understandable:
 - (i) provide the requested information; or
 - (ii) give access to any record with regard to the data subject's personal information.
- g) The prescribed fee for reproduction of the personal information requested will be charged by SARS.
- h) SARS may or must refuse, as the case may be, to disclose any information requested in terms of PAIA grounds for refusal of access to records.
- i) If, pursuant to the request for access to personal information, access is granted and/or personal information is communicated by SARS to the data subject, SARS will advise the data subject of his/her/it right to request correction of information. For more details regarding request for correction of personal information, see paragraph 21.7 below.
- j) The procedure outlined in paragraph 16 above *mutatis mutandis* apply to requests for access to a record containing personal information of the data subject made in terms of section 23 POPIA.

21.7 How to make a request for correction or deletion or destruction of Personal Information (section 24 POPIA)

- a) Data Subjects have the right to make a request to SARS to:
 - (i) correct or delete Personal Information in its possession that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading, or obtained unlawfully; or
 - (ii) destroy or delete a record of Personal Information about self which

SARS is no longer authorized to retain.

- b) You may submit your request for correction or deletion or destruction to paia@sars.gov.za or at the addresses listed in paragraph 5 above.
- c) The request must be submitted **on FORM 2 (Request for correction or deletion of personal information or destroying or deletion of record of personal information in terms of section 24(1) POPIA read together with POPIA Regulation 3(2))**.
- d) The request for correction or deletion of personal information or destroying or deletion of record of personal information in terms of section 24(1) POPIA form is available on the Information Regulator's website and at the offices of the Information Regulator during office hours. To access the form, click link below:

<https://inforegulator.org.za/wp-content/uploads/2020/07/FORM-2-REQUEST-FOR-CORRECTION-OR-DELETION-OF-PERSONAL-INFORMATION-OR.pdf>
- e) You may also request or obtain copy of the request for access to record form SARS Deputy Information Officers by emailing paia@sars.gov.za or visiting SARS Head Office, 299 Bronkhorst street, Lehae la SARS, (Corporate Legal Services).
- f) This form must be completed in sufficient detail and must, *inter alia*, address the following:
 - (i) identification of the specific information which the Data Subject wishes to be corrected, deleted, destructed or destroyed; and
 - (ii) reasons, in sufficient detail, for the request for:
 - the correction or deletion of the personal information of the Data Subject in terms of section 24(1)(a) of POPIA; and/or
 - the destruction or deletion of a record of personal information about the Data Subject in terms of section 24(1)(b) of POPIA.

- g) Upon receipt of a request for correction, deletion or destruction, SARS will assess the validity of the Data Subject's request and as soon as reasonably practicable notify the Data Subject of its decision, which may include a decision to:
 - (i) Correct the Personal Information; and
 - (ii) Destroy or delete the Personal Information.
- h) Where the request does not accord with the dictates of POPIA, SARS may refuse the request for correction, deletion or destruction of personal information.
- i) If you are disgruntled with the way SARS handled your request for correction or deletion or destruction of Personal Information or if you believe that SARS is unlawfully processing your Personal Information, you may lodge a complaint with the Information Regulator by completing **Part 1 of FORM 5. See paragraph 21.9 below on how to access FORM 5.** Complaints to the Information Regulator may be sent to POPIAComplaints@inforegulator.org.za or submitted at the offices of the Information Regulator during working hours.

21.8 How to object to the processing of your Personal Information (section 11(3) POPIA)

- a) The Data Subject has the right to object to SARS processing his/her/it Personal Information. The right to object is subject to exceptions contained in POPIA such as:
 - (i) where processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party; or
 - (ii) where processing complies with an obligation imposed by law on SARS.
- b) The objection must be submitted on **FORM 1 (objection to the processing of personal information in terms of section 11(3) POPIA read together with POPIA Regulation 2(1))**.

- c) You may submit your objection to paia@sars.gov.za or at the addresses listed in paragraph 5 above.
- d) The objection can be raised against the processing of personal information in the following circumstances:
 - (i) Where SARS is processing your personal information for direct marketing purposes;
 - (ii) the processing of personal information is based on protection of legitimate interest of the data subject;
 - (iii) the ground for the processing of personal information is for pursuing SARS legitimate interest or interest of a third party to whom the information is supplied.
- e) Reasons, in sufficient detail, for the objection based on the data subject's particular circumstances must be provided to allow SARS to assess the validity of such objection.
- f) SARS may, depending on applicable provisions of POPIA refuse the objection to it processing your Personal Information.
- g) Upon receipt of the objection, SARS will assess the validity of the Data Subject's objection and, if satisfied, will within a reasonable time cease processing the Data Subject's Personal Information and will render proof to the Data Subject to this effect.
- h) Where an objection does not accord with the dictates of POPIA, SARS may refuse the objection.
- i) If you are disgruntled with the way SARS handled your objection to the processing of Personal Information or if you believe that SARS is unlawfully processing your Personal Information, you may lodge a complaint with the Information Regulator by completing Part 1 of **FORM 5**. **See paragraph 21.9 below on how to access FORM 5.** Complaints to the Information Regulator may be sent to

POPIAComplaints@inforegulator.org.za or submitted at the offices of the Information Regulator during working hours.

21.9 Lodging complaints under POPIA

- a) The following person may lodge a complaint with the Information Regulator:
 - (i) a data subject whose personal information has been interfered with in terms of section 73 of POPIA;
 - (ii) any person acting on behalf of data subject whose personal information has been interfered with, as referred to in section 73 of POPIA;
 - (iii) any person with sufficient personal interest in the subject matter of the complaint referred to in section 73 of POPIA;
 - (iv) a responsible party or data subject aggrieved by the determination of an adjudicator in terms of section 63(3) of POPIA; or
 - (v) any person acting in the public interest.
- b) Any person alleging interference with the protection of the personal information of a data subject¹⁶ may, in terms of section 74(1) of POPIA, submit a complaint to the Information Regulator.
- c) Any person who wishes to submit a complaint contemplated in section 74(1) of POPIA must submit such a complaint to the Information Regulator on the prescribed **FORM 5 (Part I thereof)**, which form is available on the Information Regulator's website and at the offices of the Information Regulator during office hours.
- d) SARS or data subject who is aggrieved by a determination, including any declaration, order or direction that is included in the determination, made

¹⁶ Section **73 POPIA. Interference with protection of personal information of data subject.**—For the purposes of this Chapter, interference with the protection of the personal information of a data subject consists, in relation to that data subject, of—

- (a) any breach of the conditions for the lawful processing of personal information as referred to in Chapter 3;
- (b) non-compliance with section 22, 54, 69, 70, 71 or 72; or
- (c) a breach of the provisions of a code of conduct issued in terms of section 60.

by an adjudicator, may submit a complaint to the Information Regulator against the determination in terms of section 74(2) of POPIA. Please note that there is a fee payable in respect of a complaint lodged against the adjudicator's determination.

- e) Complaints referred to above must be submitted in the prescribed **PAIA FORM 5** to the Information Regulator's email address POPIAComplaints@inforegulator.org.za or at the offices of the Information Regulator during working hours.
- f) The complaints form is available on the Information Regulator's website and at the offices of the Information Regulator during office hours. To access the complaints form, click link below:

<https://inforegulator.org.za/wp-content/uploads/2020/07/FORM-5-COMPLAINT-REGARDING-INTERFERENCE-WITH-THE-PROTECTION-OF-AN-ADJUDICATOR.pdf>

- g) You may also request or obtain copy of the complaints form from SARS Deputy Information Officers by emailing paia@sars.gov.za or visiting SARS Head Office, 299 Bronkhorst street, Corporate Legal Services.
- h) The Information Regulator has published Rules of Procedure Relating to the Manner in which a Complaint must be Submitted and Handled by the Information Regulator. To access the Rules of Procedure, click the link below:

<https://inforegulator.org.za/wp-content/uploads/2020/07/20211012-InfoReg-RulesOfProcedure-HandlingPOPIAcomplaints.pdf>

21.10 Damages claim for breach of POPIA

- a) You may institute a civil damages action in court against SARS for breach of the conditions for the lawful processing of your Personal

Information.

- b) The Information Regulator may, at your request, also institute a damages civil action in court against SARS for breach of the conditions for the lawful processing of your Personal Information.

22. LODGING A SERVICE OR PROCEDURAL OR ADMINISTRATIVE COMPLAINT WITH SARS AND THE TAX OMBUD

22.1 The Minister of Finance has established the office of the Tax Ombud. The Tax Ombud's office exists as an independent, impartial and objective institution separate from SARS. Taxpayers may approach the Tax Ombud for assistance to resolve matters relating to service, procedure and administration by SARS. The purpose of the office of the Tax Ombud is to improve the relationship between the public and SARS by offering an effective conflict resolution channel between the two parties.

22.2 Before lodging a complaint with the office of the Tax Ombud, a taxpayer must exhaust the available complaints resolution mechanisms within SARS unless there are compelling circumstances for not doing so. Accordingly, a taxpayer should first seek to resolve a complaint directly with SARS:

- a) Via eFiling-Please note that you have to be registered on eFiling. If not registered yet, click [SARS eFiling](#) to access SARS eFiling page);
- b) By calling SARS Contact Centre at 0800 00 7277;
- c) By calling SARS Complaints Management Office at 0800 12 1216;
- d) By visiting SARS offices (See paragraph 12 above for details of SARS offices); or
- e) In writing via post; or
- f) via email:
 - (i) For Tax Practitioners: pcc@sars.gov.za

(ii) For Taxpayers: contactus@sars.gov.za

22.3 If a taxpayer is dissatisfied with the outcome of a complaint lodged through channels outlined in paragraph 22.2 above, a taxpayer may then approach the Tax Ombud's office. The Tax Ombud's contact details are as follows:

Tax Ombud

Menlyn Corner, 2nd Floor, 87 Frikkie De Beer Street

Menlyn

Pretoria

0181

Telephone: 0800 662 837 (Toll Free) or (+27) 12 431-9105

Fax: (+27) 12- 452-5013

E-mail: complaints@taxombud.gov.za

Website: <http://www.taxombud.gov.za/>

23. VARIOUS CONTACT DETAILS OF THE INFORMATION REGULATOR

23.1 Physical Address

The Information Regulator, South Africa

Woodmead North Office Park

54 Maxwell Drive

Woodmead

Johannesburg

2191

23.2 Toll Free Contact Number

+27 80 001 7160

23.3 Email Addresses

a) General enquiries

enquiries@inforegulator.org.za

b) Complaints (complete POPIA FORM 5 OR PAIA FORM 5)

- (i) PAIAComplaints@inforegulator.org.za - should your PAIA request be denied or there is no response from a public or private bodies for access to records you may use this email address to lodge a complaint.
- (ii) POPIAComplaints@inforegulator.org.za – should you feel that your personal information has been violated, you may use this e-mail address to lodge a complaint.

c) Manual registration of Information Officers

Registration.IO@inforegulator.org.za

d) Compliance

- (i) POPIACompliance@inforegulator.org.za

This e-mail address can be used for POPIA compliance matters such as:

- Applications for Prior Authorisations;
- Applications for Exemption;
- Applications for Processing of Information of Children;
- Applications for Processing Special Information;
- Applications for Codes of Conduct; and
- Security Compromise notices (Data breaches).

- (ii) PAIACompliance@inforegulator.org.za

This e-mail address can be used for:

- Requests for assessment of non-compliance with PAIA;

- Submission of PAIA annual report by public and private and bodies; and
- Requests for access to the records of the Information Regulator.