



# PAIA and POPI Manual

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**Sendmarc**

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**North America**  
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**Netherlands**  
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**Argentina**  
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**South Africa**  
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This manual was prepared in accordance with section 51 of the promotion of access to information act, 2000 ("the Act") and to address requirements of the protection of personal information act, 2013 ("POPI")

This manual applies to

## **Sendmarc (Pty) Limited**

(Registration number: 2018/336082/07)

And

## **Sendmarc Inc**

(SR# 20230211167)

(Sendmarc / the "Company")

### **Registered office address:**

1 Sturdee Avenue, Rosebank, Johannesburg, South Africa

and

2020 Progress Suite 100-139, Raleigh, North Caroline, 27608

respectively.

# 1. Introduction

The Promotion of Access to Information Act, 2000 (the “Act”) gives third parties the right to approach private bodies and the government to request information held by them, which is required in the exercise and/or protection of any rights. On request, the private body or government is obliged to release such information unless the Act expressly states that the records containing such information may or must not be released. This manual informs requestors of procedural and other requirements which a request must meet as prescribed by the Act.

## Nature Of Business

The Company offers an enterprise level marketing automation software for use by its clients.

## Contact Details

Name of body:	Sendmarc (Pty) Ltd / Sendmarc Inc
Head of body:	Sam Hutchinson (CEO)
Information Officer:	Sam Hutchinson
Physical Address:	16 Baker St, Rosebank, Johannesburg, 2196 2020 Progress Suite 100-139, Raleigh, North Caroline, 27608
Postal Address:	1 Sturdee Avenue, Rosebank.
Telephone Number:	+27 87 809 0871 +1 214 216 6913
Facsimile Number:	+27 _____
Email address:	info@sendmarc.com

## 2. Guide Of Human Rights Commission / Information Regulator

A guide to the Act (as contemplated under section 10 of the Act) is available from the South African Human Rights Commission. The guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act.

Any enquiries regarding this guide and its contents should be directed to:

### The South African Human Rights Commission:

PAIA Unit (the Research and Documentation Department)

Postal address:	Private Bag 2700, Houghton, 2041
Telephone:	+27 11 484-8300
Fax:	+27 11 484-7146
Website:	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>
E-mail:	<a href="mailto:PAIA@sahrc.org.za">PAIA@sahrc.org.za</a>

Alternatively, its successor,

### The Information Regulator (South Africa)

27 Stiemens Street, Braamfontein  
Ms. Mmamoroke Mphelo  
Tel: 010 023 5200  
Fax: 086 500 3351  
[infoereg@justice.gov.za](mailto:infoereg@justice.gov.za)

### 3. Access To Records Held By The Company

Records held by the Company may be accessed on request only once the requirements for access have been met. A requester is any person making a request for access to a record of the Company and in this regard, the Act distinguishes between two types of requesters:

#### Personal Requester

A personal requester is a requester who is seeking access to a record containing personal information about the requester. Subject to the provisions of the Act and applicable law, the Company will provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged by the Company.

#### Other Requester

This requester (other than a personal requester) is entitled to request access to information pertaining to third parties. However, the Company is not obliged to grant access prior to the requester fulfilling the requirements for access in terms of the Act. The prescribed fee for reproduction of the information requested will be charged by the Company.

#### Request Procedure

A requester must comply with all the procedural requirements contained in the Act relating to a request for access to a record. A requester must complete the prescribed form enclosed herewith in Appendix 1 and submit same as well as payment of a request fee and a deposit, if applicable to the information officer at the postal or physical address, fax number or electronic mail address stated herein. The prescribed form must be filled in with enough particularity to at least enable the information officer to identify:

- The record or records requested;
- The identity of the requester;
- What form of access is required; and
- The postal address or fax number of the requester.

A requester must state that he or she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. The requester must also provide an explanation of why the requested record is required for the exercise or protection of that right.

The Company will process a request within 30 (thirty) days, unless the requestor has stated special reasons which would satisfy the information officer that circumstances dictate that the this time period not be complied with.

The requester shall be informed in writing whether access has been granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he or she must state the manner and the particulars so required. If a request is made on behalf of another person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the information officer.

If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally to the information officer.

## Decision

The Company will, within 30 (thirty) days of receipt of a request, decide whether to grant or decline a request and give notice with reasons (if required) to that effect. The 30 (thirty) day period within which the Company has to decide whether to grant or refuse a request, may be extended for a further period of not more than 30 (thirty) days if the request is for a large quantity of information, or the request requires a search for information held at another office of the Company (other than the head office) and the information cannot reasonably be obtained within the original 30 (thirty) day period. The information officer will notify the requester in writing should an extension be necessary.

## 4. Fees

The Act provides for two types of fees:

A request fee, (which will be a standard fee) and an access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs where applicable. When a request is received by the information officer of the Company, the information officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing of the request. If a search for the record is necessary and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the information officer shall notify the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.

The information officer shall withhold a record until the requester has paid the fee or fees as indicated. A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form. If a deposit has been paid in respect of a request for access, which is refused, then the information officer shall repay the deposit to the requester.

## 5. Categories Of Records Held By The Company: Section 51(1)(E)

### Companies Act Records

- Documents of incorporation
- Memorandum of Incorporation
- Minutes of Board of Directors meetings
- Records relating to the appointment of directors / auditor / secretary / public officer and other officers
- Share Register and other statutory registers

### Financial Records

- Annual Financial Statements
- Tax Returns
- Accounting Records
- Banking Records
- Bank Statements
- Electronic banking records

- Asset Register
- Rental Agreements
- Invoices

### **Tax Records**

- PAYE Records
- Documents issued to employees for income tax purposes
- Records of payments made to SARS on behalf of employees
- All other statutory compliances:
  - VAT
  - Skills Development Levies
  - UIF
  - Workmen's Compensation

### **Personnel Documents and Records**

- Employment contracts
- Employment Equity Plan (if applicable)
- Disciplinary records
- Salary records
- Disciplinary code
- Leave records
- Training records
- Training Manuals

## **6. Processing Of Personal Information**

### **Purpose of Processing**

The Company uses the Personal Information under its care in the following ways:

- Rendering service according to instructions given by clients
- Staff administration
- Keeping of accounts and records
- Complying with tax laws

### **Categories of Data Subjects and their Personal Information**

The Company may possess records relating to suppliers, shareholders, contractors service providers, staff and clients:

Entity Type	Personal Information Processed
Clients – Juristic Persons / Entities	Names of contact persons; Name of Legal Entity; Physical and Postal address and contact details; Financial information; Registration Number; Founding documents; Tax related information; authorised signatories, beneficiaries, ultimate beneficial owners
Clients –	Names; registration number; contact details; physical and postal addresses; Tax related information; confidential correspondence
Intermediary / Advisor	Names of contact persons; Name of Legal Entity; Physical and Postal address and contact details; Financial information; Registration Number; Founding documents; Tax related information; authorised signatories, beneficiaries, ultimate beneficial owners
Contracted Service Providers	Names of contact persons; Name of Legal Entity; Physical and Postal address and contact details; Financial information; Registration Number; Founding documents; Tax related information; authorised signatories, beneficiaries, ultimate beneficial owners
Employees / Directors	Gender, Pregnancy; Marital Status; Colour, Age, Language, Education information; Financial Information; Employment History; ID number; Physical and Postal address; Contact details; Opinions, Criminal behaviour; Well-being;

### Categories of Recipients for Processing the Personal Information

The Company may supply the Personal Information to service providers who render the following services:

- Capturing and organising of data;
- Storing of data;
- Sending of emails and other correspondence to clients
- Conducting due diligence checks;
- Administration of the Collective Investment Schemes;

### Actual or Planned Trans border Flows of Personal Information

The Company may transfer data trans-border in order to store data with third party cloud storage providers.

### General Description of Information Security Measures

The Company employs up to date technology to ensure the confidentiality, integrity and availability of the Personal Information under its care. Measures include:

- Firewalls



- Virus protection software and update protocols
- Logical and physical access control;
- Secure setup of hardware and software making up the IT infrastructure;
- Outsourced Service Providers who process Personal Information on behalf of the Company are contracted to implement security controls.

## 7. Remedies Available If Request for Information Is Refused

### Internal Remedies

The Company does not have internal appeal procedures. As such, the decision made by the information officer pertaining to a request is final, and requestors will have to exercise such external remedies at their disposal if a request is refused, and the requestor is not satisfied with the response provided by the information officer.

### External Remedies

A requestor that is dissatisfied with the information officer's refusal to disclose information, may within 30 (thirty) days of notification of the decision, apply to a court for relief. Likewise, a third party dissatisfied with the information officer's decision to grant a request for information, may within 30 (thirty) days of notification of the decision, apply to a court for relief. For purposes of the Act, courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

## 8. List of Applicable Legislation

Records of the Company's and other legal entities in which the Company has a direct controlling interest or an indirect controlling interest through its subsidiaries) may be kept by or on behalf of the Company in accordance with the following legislation (some of which legislation may not be applicable to the Company), as well as with other legislation that may apply to the Company and/or its subsidiaries from time to time:

- Basic Conditions of Employment Act 57 of 1997;
- Broad-based Black Economic Empowerment Act 53 of 2003 Companies Act 71 of 2008;
- Compensation for Occupational Injuries and Diseases Act 130 of 1993 Copyright Act 98 of 1978;
- Currencies and Exchanges Act 9 of 1993;
- Electronic Communications and Transactions Act 25 of 2002 Employment Equity Act 55 of 1998;
- Financial Intelligence Centre Act 38 of 2001;
- Financial Institutions (Protection of Funds) Act 28 of 2001 Financial Services Board Act 97 of 1990;
- Income Tax Act 58 of 1962;
- Inspection of Financial Institutions Act 80 of 1998 Labour Relations Act 66 of 1995;
- Occupational Health and Safety Act 85 of 1993;
- Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002;
- Prevention of Organised Crime Act 121 of 1998;
- Prevention and Combating of Corrupt Activities Act 12 of 2004 Promotion of Access to Information Act 2 of 2000;
- Protected Disclosures Act 26 of 2000;

- Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004 Skills Development Act 97 of 1998;
- Skills Development Levy Act 9 of 1999 Securities Transfer Tax Act 25 of 2007;
- Securities Transfer Tax Administration Act 26 of 2007 Trade Marks Act 194 of 1993;
- Trust Property Control Act 57 of 1988 Unemployment Insurance Act 30 of 1966;
- Unemployment Insurance Contributions Act 4 of 2002 Value Added Tax Act 89 of 1991.

## 9. Availability Of The Manual

The manual is available for inspection, on reasonable prior notice, at the office of the company free of charge. Copies of the manual of the Company are also available from the SAHRC.

## 10. Approval

Signed on behalf of The Company on this \_\_\_\_\_ Day of \_\_\_\_\_ 20\_\_\_\_\_.

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**Sam Hutchinson**  
CEO

# Appendix 1: Prescribed Form C To Be Completed By A Requester

## Request for Access to Record of Private Body

(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

[Regulation 10]

### A. Particulars of private body

The Head: \_\_\_\_\_

### B. Particulars of person requesting access to the record

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

Postal address: \_\_\_\_\_

Fax number: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E -mail address: \_\_\_\_\_

Capacity in which request is made, when made on behalf of another person:

### C. Particulars of person on whose behalf request is made

This section must be completed *ONLY* if a request *for information* is made on behalf of *another* person.

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

#### D. Particulars of record

- a. Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- b. If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:

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2. Reference number, if available:

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3. Any further particulars of record:

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#### E. Fees

- a. A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- b. You will be notified of the amount required to be paid as the request fee.
- c. The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- d. If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

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**F. Form of access to record**

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:

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Notes:

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

**Form in which record is required**

Mark the appropriate box with an X.

**1. If the record is in written or printed form:**

☐ copy of record\*      ☐ inspection of record

**2. If record consists of visual images** (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

☐ view the images      ☐ copy of the images"      ☐ transcription of the images\*

**3. If record consists of recorded words or information which can be reproduced in sound:**

- ☐ listen to the soundtrack audio cassette
- ☐ transcription of soundtrack\* written or printed document

**4. If record is held on computer or in an electronic or machine-readable form:**

- ☐ printed copy of record\*      ☐ printed copy of information derived from the record"
- ☐ copy in computer readable form\* (stiffy or compact disc)

'If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.

☐ YES

☐ NO

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

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

Indicate which right is to be exercised or protected:

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Explain why the record requested is required for the exercise or protection of the aforementioned right:

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

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

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Signed at \_\_\_\_\_ this \_\_\_\_\_ Day of \_\_\_\_\_ 20\_\_\_\_\_.

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Signature of requester / person on whose behalf request is made.