



BRILLIANCE

PAIA and POPIA Manual



PAIA AND POPIA MANUAL

Introduction

The Promotion of Access to Information Act (PAIA) is in line with the South African Constitution (section 32). This provides for access to information should a person wish to exercise their right or to protect their right, subject to the requirements set out in PAIA. This manual has been prepared in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000, comprising six key requirements.

The Protection of Personal Information Act (POPIA) sets out eight protection principles to protect the personal information of data subjects. With POPIA in mind, this manual is prepared in terms of Sections 14 of PAIA in addition to Section 51.

The purpose of this manual is to assist a potential requester by providing details of how information should be requested in terms of the above two Acts. Should it be correctly requested, Brilliance is required to:

- Inform a requester what type of personal information Brilliance holds with respect to the requester
- Provide access to information that falls within the ambit of PAIA provided it is not information that has mandatory protected privacy rights.

Furthermore, this manual provides a guide on how Brilliance processes personal information in line with POPIA.

Availability of this manual

In accordance with Section 4 of PAIA and the relevant regulations of POPIA, his manual is made available:

- On the Brilliance website www.BrillianceCX.com at no cost
- By contacting Brilliance to arrange to see a hard copy during normal business hours at no cost
- By contacting the Information Officer who will provide copies at a fee

About Brilliance

Brilliance is a provider of software-as-a-service as well as consulting and training to help companies to do what's best for their customers.

Brilliance enables its clients to keep more customers more effectively by providing practical tools and methods based on decades of experience working with many companies to achieve greater customer retention, stronger customer-focused culture, and exceptional complaint management and service recovery. For more information, see <https://brilliancecx.com/about-brilliance-best-for-customers/>

Name of business	Brilliance in Business CC
Contact person	Samantha Burns (owner and member)
Physical address	1127 Oubaai Estate Herolds Bay George

Postal address	Postnet Suite 27 Private Bag X6528 George 6530
Telephone	082 606 7227
Website	www.BrillianceCX.com
Email	TheTeam@BrillianceCX.com
Director and Information Officer	Samantha Burns Samantha@BrillianceCX.com

The Section 10 Guide and how to access it

A Guide has been compiled in terms of Section 10 of the Promotion of Access to Information Act (PAIA) by the Human Rights Commission. It contains information required by a person wishing to exercise any right contemplated by PAIA. It is available in all the official languages.

The Guide is available from the Information Regulator (South Africa) as follows:

Physical address	JD House 27 Stiemens Street Braamfontein 2001
Postal address	Private Bag X2700 Houghton 2041
Telephone	010 023 5200
Email	inforeg@justice.gov.za
Website	https://www.justice.gov.za/inforeg/docs.html

Information available

Records which are available without a person having to request access in terms of this Act in terms of section 52(2) [and Section 51(1)(c)] include details about Brilliance in Business services and BEE status, which are freely available on the company's website.

Day to day operational information concerning Brilliance is generally not applicable to persons outside the company for the purpose of protecting their constitutional rights. Examples of such information are: quotes, proposals, strategic plans, client correspondence, client information, contracts, supplier records, research reports, technical information, and general accounting records.

At this stage no notice has been published on any other categories of records that are automatically available without a person having to request access in terms of PAIA.

Records are kept in terms of the following legislation

Records are held by Brilliance in terms of the following legislation when applicable:

- Close Corporations Act No. 69 of 1984
- Companies Act 71 of 2008
- Income Tax Act No. 58 of 1962
- Value Added Tax Act No. 89 of 1991
- Broad Based Black Economic Empowerment Act 53 of 2003
- Consumer Protection Act 68 of 2008
- Basic Conditions of Employment Act No. 75 of 1997
- Skills Development Act 97 of 1998
- Labour Relations Act 66 of 1995
- Unemployment Insurance Act 63 of 2001
- Employment Equity Act 55 of 1998
- As well as the Protection of Personal Information Act 4 of 2013 and the Promotion of Access to Information Act 2 of 2000 which are most relevant to this manual.

Notice in terms of Section 51(1)b(ii)

No notice has been published to date in terms of this Section of the PAIA Act.

Records available in terms of Section 51(1)b(iii)

Statutory Records held by Brilliance include:

- Documents of incorporation
- Share-holding documentation
- Minutes of meetings
- Written resolutions
- Company registers
- Agreements
- BEE status documentation
- Other statutory records, registers and returns

Financial and Accounting Records held by Brilliance include:

- Records relating to the appointment of accounting officer and other members
- Annual Financial Statements
- Tax Returns and other documents relating to taxation of the company
- Tax clearance certification
- Accounting Records
- Banking Records
- Asset Register

- Invoices
- Skills development levies
- UIF

Human Resource Records held by Brilliance include:

- Annual payroll summaries
- Employment contracts
- Contractor contracts
- Salaries of employees
- Personal records provided by personnel

Other Records held by Brilliance include:

- Non-disclosure agreements
- Client contracts
- Systems agreements
- Systems documentation
- Client data on systems

Procedure for request of access - Section 53 to 57 and Section 60

- The requester of information needs to complete a form of request (Form C copy attached).
- The requester must use the prescribed form to make the request for access to a record. This must be made to the Information Officer. This request must be made to the address or email address as provided in point 1 of this manual.
- The requester must provide sufficient detail on the request form to enable the Information Officer to identify the record or records requested and the requester.
- The requester must identify the right that is sought to be exercised or to be protected and provide an explanation of why the requested record is required for the exercise or protection of that right.
- 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 the request is granted then a further access fee must be paid for the search, reproduction, and preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.
- The Information Officer will process the request and notify the requester in writing within 30 calendar days of its decision whether or not the request has been granted. Should the request be granted, the notice will state the access fees (if any) that are payable. 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. If the requester has asked for information to be made available in a specific form that requires a different procedure to be followed, a higher fee may be applicable. A copy of the fee structure applicable to public and private bodies can be accessed at the Information Officer.
- If Brilliance cannot find any requested record or it does not exist, Brilliance will notify the requester by way of affidavit that it is not possible to give access to that particular record.
- Should the request be refused, the notice will state adequate reasons for the refusal.
- This manual does not give rise to any rights to access information, except in terms of the PAIA Act.

Grounds for refusal of access to records – in terms of POPIA and Section 63 to 69 of PAIA

Access to certain records may be or must be denied on the grounds of PAIA and POPIA. This includes where:

- The information is commercial Information of a Private Body
- The public interests are not served
- The privacy and interests of other individuals are protected, where disclosure would be unreasonable
- The mandatory protection of commercial Information of a third party/company which include trade secrets, financial, commercial or technical Information that may cause harm if disclosed and Information that could put a third party/company at a disadvantage in contractual/other negotiations or commercial competition or computer programs owned by a company protected by copyright and intellectual property laws
- The mandatory protection of certain confidential Information of a third party would breach a duty of confidence
- The mandatory protection of confidential Information of third parties is protected in terms of an agreement
- There is mandatory protection of the safety of individuals and protection of property
- After the commencement of legal proceedings, the mandatory protection of Records are privileged in such legal proceedings. There is mandatory protection of legal privileged documents
- Research Information of a third party/company
- Requests for Records are clearly frivolous or vexatious, or involve an unreasonable diversion of resources.

POPIA guide and processing of personal information by Brilliance

POPIA provides for minimum Protection Principles for the lawful processing of Personal Information by Brilliance. A POPIA Guide setting out how Personal Information will be processed by Brilliance is held by the Information Officer.

Objection to process Personal Information

A person who wants to object to the processing of Personal Information in terms of section 11(1)(d) to (f) of POPIA, must contact the Information Officer via email.

Documentary proof will need be submitted with the email in support of the objection.

Request for the correction or deletion of Personal Information

A person who wants Brilliance to rectify, delete or destroy Personal Information in terms of section 24 of POPIA, must email the Information Officer.

Documentary proof will need to be submitted with the email in support of the request.

Complaints in terms of POPIA

A Person may submit a complaint to the Regulator in the prescribed manner and form alleging interference with the protection of the Personal Information of a Data Subject.

A Responsible Party or Data Subject may, in terms of section 63(3), further submit a complaint to the Regulator in the prescribed manner and form if he/she/it is aggrieved by the determination of an adjudicator.

The contact details of the Information Regulator are as follows:

- o **Business address:** JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001
- o **Postal address:** P.O. Box 31533, Braamfontein, Johannesburg, 2017
- o **Email:** complaints.IR@justice.gov.za
- o **Website:** www.justice.gov.za

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000)

[Regulation 10]

A. Particulars of private body

The Head:

B. Particulars of person requesting access to the record

- | | |
|-----|---|
| (a) | The particulars of the person who requests access to the record must be given below. |
| (b) | The address and/or fax number in the Republic to which the information is to be sent must be given. |
| (c) | Proof of the capacity in which the request is made, if applicable, must be attached. |

Full names and surname:

Identity number:

Postal address:

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 <i>ONLY</i> if a request <i>for information</i> is made on behalf of <i>another</i> person.
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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:
2. Reference number, if available:
3. Any further particulars of record:

E. Fees

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

Reason for exemption from payment of fees:

F. Form of access to record

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

Disability: Form in which record is required:	Form in which record is required
Mark the appropriate box with an X. 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.	

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* (CD)
'If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.			YES NO

G Particulars of right to be exercised or protected

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

1. Indicate which right is to be exercised or protected:
2. Explain why the record requested is required for the exercise or protection of the aforementioned right:

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

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

Signed at..... This..... day of20

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE