



South African Road Passenger Bargaining Council

("SARPAC")

PAIA MANUAL (PART A)

&

POPIA & PRIVACY POLICY (PART B)

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PART A- PAIA MANUAL

1. LIST OF DEFINITIONS, ACRONYMS AND ABBREVIATIONS

- | | | |
|----|------------------------------------|---|
| 1. | “Industry” | Road Passenger Transport Industry as defined in SARPBAC’s scope; |
| 2. | “LRA” | Labour Relations Act 66 of 1995; |
| 3. | “PAIA” | Promotion of Access to Information Act 2 of 2000; |
| 4. | “POPIA” | Protection of Personal Information Act 4 of 2013; |
| 5. | “Regulation” / “prescribed” | GNR.757 of 27 August 2021: Regulations relating to the Promotion of Access to Information, 2021 (Government Gazette No. 45057); or

GNR.1383 of 14 December 2018: Regulations relating to the Protection of Personal Information (Government Gazette No. 42110); (as the case may be) |
| 6. | “Regulator” | Information Regulator; |
| 7. | “SAHRC” | South African Human Rights Commission; and |
| 8. | “SARPBAC” | South African Road Passenger Bargaining Council; |

2. INTRODUCTION

1. This manual is compiled in accordance with sections 14 and 51 of PAIA and to address the requirements of POPIA.
2. PAIA gives effect to section 32 of the Constitution, which provides that everyone has the right to access information, and should be read in conjunction with POPIA, which gives effect to the right to privacy and includes the right to protection against the unlawful processing of personal information. PAIA aims to underline the importance of access to information in a democratic society by, *inter alia*, requiring public and private bodies to create a manual describing the type of records they hold, and procedures for others to access that information. PAIA also provides for certain limitations on the types of information that can be accessed under various circumstances.
3. SARPBAC may, in one instance be considered a public body and in another instance be considered a private body, depending on whether the requested record relates to the exercise of a power, performance or function by SARPBAC as a public or a private body.¹

¹ **Section 8 of PAIA:** “Part applicable when performing functions as public or private body.—(1) For the purposes of this Act, a public body referred to in paragraph (b) (ii) of the definition of “public body” in section 1, or a private body— (a) may be either a public body or a private body in relation to a record of that body; and (b) may in one instance be a public body and in another instance be a private body, depending

4. This manual is made available in English to all potential requestors of information held by SARPBAC, and the translated versions in two other official languages will also be made available on request. Requesters may contact the Information Officer for assistance when requesting records from SARPBAC in terms of this manual.
5. This manual will be updated, if and necessary, on an annual basis. This manual is accessible on SARPBAC's website at www.sarpbac.org.za.

3. SARPBAC PROFILE²

1. SARPBAC is a bargaining council established in terms of section 27 of the LRA.
2. The powers and functions of SARPBAC, in relation to its registered scope, are set out in the LRA, its Constitution and the SARPBAC collective agreements, and include but are not limited to performing dispute resolution functions (subject in certain instances to accreditation by the CCMA), dealing with matters that affect the interests of employers and employees that fall within its scope and to maintain and enhance industrial peace.
3. SARPBAC'S registered scope is defined as follows: "Road Passenger Transport Trade" or "Trade" means the trade in which employers and their employees are associated for the purpose of conveying for reward on any public road any person by means of a power-driven vehicle (other than a vehicle in the possession and under the control of Transnet) intended to carry more than 16 persons simultaneously including the driver of the vehicle and includes all operations or consequent thereto."
4. SARPBAC's structures are those set out in its Constitution, but its main authority is the Central Committee who is, *inter alia*, charged with administering SARPBAC'S Constitution, the setting up of sub-committees, the appointment of staff, matters of policy, the establishment and maintenance of dispute resolution process as provided for in section 28(1)(d) read with section 51 of the LRA, and any other function as detailed in SARPBAC's Constitution. The Central Committee comprises of 10 representatives nominated by the Employers' Organisations and 10 representatives nominated by the Trade unions that are a party to SARPBAC.

on whether that record relates to the exercise of a power or performance of a function as a public body or as a private body. (2) A request for access to a record held for the purpose or with regard to the exercise of a power or the performance of a function— (a) as a public body, must be made in terms of section 11; or (b) as a private body, must be made in terms of section 50. (3) The provisions of Parts 1, 2, 4, 5, 6 and 7 apply to a request for access to a record that relates to a power or function exercised or performed as a public body. (4) The provisions of Parts 1, 3, 4, 5, 6 and 7 apply to a request for access to a record that relates to a power or function exercised or performed as a private body."

² Section 14(1)(a)(i) of PAIA.

4. KEY CONTACT DETAILS FOR ACCESS TO INFORMATION³

1. For the purposes of this manual, the term “Information Officer” refers to the statutory information officer of a public body as referred to in section 18 of PAIA, and the head of the private body referred to in section 53 of PAIA.⁴

a) Information Officer

Information Officer	Gary Wilson
SARPBAC’S registered postal address	PO Box 13238, Mowbray, Cape Town, South Africa, 7705
SARPBAC’S registered physical address	Ground Floor, Stone House, Stonefountain Terrace, 95 Klipfontein Road, Rondebosch, Cape Town, South Africa, 7700
Telephone number	021 686 4281 / 081 417 9721
Fax number	021 685 8048
Email Address	gary@sarpbac.org.za
Website	www.sarpbac.org.za

b) SARPBAC contact details

SARPBAC Head Office- Cape Town	
Physical address	Ground Floor, Stone House, Stonefountain Terrace, 95 Klipfontein Road, Rondebosch, Cape Town, South Africa, 7700
Postal address	PO Box 13238, Mowbray, Cape Town, South Africa, 7705
Telephone number	021 686 4281 / 081 417 9721
Fax number	0866 102 401 / 021 685 8048
SARPBAC Gauteng Office	
Physical address	2nd Floor, Marlboro House 127 Cnr Fox and Eloff Street, Johannesburg, South Africa
Telephone number	011 331 7013
Fax number	011 331 6980
SARPBAC Durban Office	
Physical address	2nd Floor, Spaces Umhlanga 2 Ncondo Place, Ridgeside, Umhlanga, Durban, South Africa

³ Section 14(1)(a)(ii) of PAIA; section 51(a)(a)(i) of PAIA.

⁴ Section 53 of PAIA: “Form of request- (1) A request for access to a record of a private body must be made in the prescribed form to the private body concerned at its address, fax number or electronic mail address. (2) The form for a request for access prescribed for the purposes of subsection (1) must at least require the requester concerned— (a) to provide sufficient particulars to enable the head of the private body concerned to identify— (i) the record or records requested; and (ii) the requester; (b) to indicate which form of access is required; (c) to specify a postal address or fax number of the requester in the Republic; (d) to identify the right the requester is seeking to exercise or protect and provide an explanation of why the requested record is required for the exercise or protection of that right; (e) if, in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, to state that manner and the necessary particulars to be so informed; and (f) if the request is made on behalf of a person, to submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the head.”

Telephone number	031 830 5025
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5. GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE

1. The Regulator has, in terms of section 10(1) of PAIA, updated and made available the Guide on how to use PAIA (the “**Guide**”), in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA.
2. The Guide is available in each of the official languages.
3. The aforesaid Guide contains the description of:
 - 3.1. The objects of PAIA and POPIA;
 - 3.2. The postal and street address, phone and fax number and, if available, electronic mail address of:
 - 3.2.1. The Information Officer of every public body, and
 - 3.2.2. Every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA⁵ and section 56 of POPIA;⁶
 - 3.3. The manner and form of a request for:
 - 3.3.1. Access to a record of a public body contemplated in section 11;⁷ and
 - 3.3.2. Access to a record of a private body contemplated in section 50;⁸
 - 3.4. The assistance available from the Information Officer of a public body in terms of PAIA and POPIA;
 - 3.5. The assistance available from the Regulator in terms of PAIA and POPIA;
 - 3.6. All remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging:
 - 3.6.1. An internal appeal;

⁵ Section 17(1) of PAIA- *For the purposes of PAIA, each public body must, subject to legislation governing the employment of personnel of the public body concerned, designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records.*

⁶ Section 56(a) of POPIA- *Each public and private body must make provision, in the manner prescribed in section 17 of the Promotion of Access to Information Act, with the necessary changes, for the designation of such a number of persons, if any, as deputy information officers as is necessary to perform the duties and responsibilities as set out in section 55(1) of POPIA.*

⁷ Section 11(1) of PAIA- *A requester must be given access to a record of a public body if that requester complies with all the procedural requirements in PAIA relating to a request for access to that record; and access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.*

⁸ Section 50(1) of PAIA- *A requester must be given access to any record of a private body if-*

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

- 3.6.2. A complaint to the Regulator; and
 - 3.6.3. An application with a court against a decision by the Information Officer of a public body, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;
 - 3.7. The provisions of sections 14⁹ and 51¹⁰ requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
 - 3.8. The provisions of sections 15¹¹ and 52¹² providing for the voluntary disclosure of categories of records by a public body and private body, respectively;
 - 3.9. The notices issued in terms of sections 22¹³ and 54¹⁴ regarding fees to be paid in relation to requests for access; and
 - 3.10. The regulations made in terms of section 92¹⁵.
4. Members of the public can inspect or make copies of the Guide from the offices of the public or private bodies, including the office of the Regulator, during normal working hours. The Guide can also be obtained-
- 4.1. Upon request to the Information Officer;
 - 4.2. From the website of the Regulator (<https://www.justice.gov.za/inforeg/>).

⁹ Section 14(1) of PAIA- The information officer of a public body must, in at least three official languages, make available a manual containing information listed in paragraph 4 above.

¹⁰ Section 51(1) of PAIA- The head of a private body must make available a manual containing the description of the information listed in paragraph 4 above.

¹¹ Section 15(1) of PAIA- The information officer of a public body, must make available in the prescribed manner a description of the categories of records of the public body that are automatically available without a person having to request access.

¹² Section 52(1) of PAIA- The head of a private body may, on a voluntary basis, make available in the prescribed manner a description of the categories of records of the private body that are automatically available without a person having to request access

¹³ Section 22(1) of PAIA- The information officer of a public body to whom a request for access is made, must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

¹⁴ Section 54(1) of PAIA- The head of a private body to whom a request for access is made must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

¹⁵ Section 92(1) of PAIA provides that –“The Minister may, by notice in the Gazette, make regulations regarding-

1. (a) any matter which is required or permitted by this Act to be prescribed;
2. (b) any matter relating to the fees contemplated in sections 22 and 54;
3. (c) any notice required by this Act;
4. (d) uniform criteria to be applied by the information officer of a public body when deciding which categories of records are to be made available in terms of section 15; and
5. (e) any administrative or procedural matter necessary to give effect to the provisions of this Act.”

6. REQUEST FOR ACCESS IN TERMS OF PAIA¹⁶

1. A request for access to records held by the Fund must be addressed to the Information Officer and be made by completing Form 2 of Annexure A to the Regulations relating to PAIA (attached below),¹⁷ and against payment at the prescribed rates.
2. To facilitate the processing of your request, you must provide sufficient details to enable the Fund to attend thereto. If a request is made on behalf of another person, the requester must submit reasonable proof of the capacity in which the requester is making the request. A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester must pay the required request fee (as may be amended from time to time).¹⁸
3. The following applies to requests, other than personal requests:
 - 3.1. A requestor is required to pay the prescribed request fee as prescribed in the Guide, before a request will be processed; and
 - 3.2. Records may be withheld until the relevant fees have been paid in full.
4. The full fee structure is also available on the website of the Regulator (<https://www.justice.gov.za/inforeg/>). The latest legislated fee structure will at all times be applicable.

7. DESCRIPTION OF ALL REMEDIES AVAILABLE¹⁹

A complaint may, where appropriate, take such steps as provided for in sections 74 to 82 of PAIA in respect of an act or a failure to act in terms of PAIA. If a data subject holds the view that information has been dealt with contrary to PAIA, the data subject should, however, first approach SARPAC to afford it the opportunity to deal with and resolve any issues where appropriate.

¹⁶ Section 14(1)(b)(ii) of PAIA; Section 51(1)(b)(iv) of PAIA.

¹⁷ Regulation 7 of the Regulations relating to PAIA: "Request for access to information.—(1) A request for access to a record contemplated in section 18 (1) or 53 (1) of the Act, must be made on a form that corresponds substantially with Form 2 of Annexure A to the Regulations, to the information officer.(2) The information officer must—(a) assist a requester with any request with regards to a request for access to information; and (b)if a request for access to a record is made orally as a result of illiteracy or a disability of a requester, complete Form 2 of Annexure A to the Regulations on behalf of the requester and provide a copy thereof to the requester, as contemplated in section 18 (3) of the Act. (3) The request fee payable by every requester referred to in section 22 (1) or 54 (1) of the Act is prescribed in item 1 of Annexure B to the Regulations."

Section 18(1) of PAIA: "Form of requests.- (1) A request for access must be made in the prescribed form to the information officer of the public body concerned at his or her address or fax number or electronic mail address."

Section 53(1) of PAIA: "Form of request.- (1) A request for access to a record of a private body must be made in the prescribed form to the private body concerned at its address, fax number or electronic mail address."

¹⁸ **Section 22(1) of PAIA:** "Fees: (1) The information officer of a public body to whom a request for access is made, must by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing the request."

Section 54(1) of PAIA: "Fees: (1) The head of a private body to whom a request for access is made must by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing the request."

¹⁹ Section 14(1)(a)(iii) of PAIA.

8. SUBJECTS AND CATEGORIES OF RECORDS HELD BY SARPBAC²⁰ IN RELATION TO DATA SUBJECTS²¹

1. The records held by SARPBAC in relation to data subjects include, but are not necessarily limited to, the following and should be formally requested by using the request procedure contained in PAIA.
2. It is recorded that all records not displayed on SARPBAC'S website shall only be made available to a requestor subject to the provisions of PAIA and POPIA. These documents may at any time be changed or updated.

Subjects on which SARPBAC holds records	Categories of records held on each subject and in relation to data subjects
Registration Process Records	<ul style="list-style-type: none"> • In relation to SARPBAC and as otherwise provided to SARPBAC by employers and employees falling within SARPBAC's scope. Certain Panelists are also registered with SARPBAC.
SARPBAC administration records	<ul style="list-style-type: none"> • Including but not limited to records relating to the Central Committee and other committees • Documents relating to service providers
Dispute resolution documents and other applications to SARPBAC	<ul style="list-style-type: none"> • All documents submitted and received as part of disputes and applications made to SARPBAC and disputes referred by SARPBAC. May include information submitted by Panelists to SARPBAC.
Wage negotiation records	<ul style="list-style-type: none"> • As submitted by parties to SARPBAC and Panelists dealing with wage negotiations
Documents submitted to SARPBAC by employers and employees falling within SARPBAC scope in compliance with SARPBAC's Constitution and other collective agreements	<ul style="list-style-type: none"> • Proof of compliance with SARPBAC's Constitution and other collective agreements
SARPBAC Financial Management Records	<p>SARPBAC may have, <i>inter alia</i>, the following documents:</p> <ul style="list-style-type: none"> • SARPBAC's financial information • Accounting records • Annual Financial statements • Banking records • Business contracts • General correspondence • Invoices, credit notes, statements etc. • Property leases

²⁰ Section 14(1)(b)(ii) of PAIA; section 51(1)(b)(iv).

²¹ Section 14(1)(c)(ii) of PAIA; section 51(1)(c)(ii) of PAIA.

	<ul style="list-style-type: none"> • Statutory records • Tax returns and SARS correspondence • Minutes of Finance Committee and related sub-committee meetings
SARPBAC Human Resources Management Records	<ul style="list-style-type: none"> • Documents relating to the appointment and employment of SARPBAC employees
Communication records	<ul style="list-style-type: none"> • Website content • Other communications sent and received by SARPBAC
Governance Records	<ul style="list-style-type: none"> • As required by legislation or otherwise.

3. Although SARPBAC has used its best endeavours to supply a list of records held by it, it is possible that this list may be incomplete. If a requester believes that a record exists, the requester is required to indicate as such to the Information Officer who will then consider and make an assessment in relation to such request.
4. The above table of subjects/categories of records does not imply that a request for access to such records will be honoured or create a right or entitlement (contractual or otherwise) to such records. All requests for access will be evaluated on a case by case basis in accordance with the provisions of PAIA.

9. AUTOMATIC AVAILABILITY OF CERTAIN RECORDS

1. The following records are automatically available on SARPBAC's website and in certain instances at its registered head office during normal office hours, if requested on notice. These documents may at any time be changed or updated by SARPBAC.

Category	Document Type
SARPBAC Governance (Compliance and regulatory records)	<u>SARPBAC'S Constitution</u> <ul style="list-style-type: none"> • Appendix "A" to SARPBAC's Constitution: Collective Agreements • Appendix "B" to SARPBAC's Constitution: Dispute Resolution • Appendix "C" to SARPBAC's Constitution: Exemption procedure
	<u>Main Collective Agreement</u> <ul style="list-style-type: none"> • Annexure A: Job Titles, Grades, Minimum Hourly Rates • Annexure B: Dispute Resolution • Annexure C: Exemption Procedure • Annexure D: Approved Study Courses
	Rules for Commissioners
	Role of the Designated Agent
	Conciliation Referral Form
	Request for Arbitration Form
	PAIA / POPIA Manual

	Non-compliant companies to the SARPBAC Collective Agreement
	Research Report- Global and local indicators and Bargaining Council specific issues.
	Case law relating to SARPBAC and other labour related cases
General information pertaining to SARPBAC	News articles and announcements of interest to SARPBAC
	Organisational profile- Mandate, Scope
	Contact information for SARPBAC
	Disputes and arbitration statistics (graphic)
	Details of bus companies represented by SARPBAC
Information pertaining to SARPBAC Retirement Fund	Contact information for SARPBAC Retirement Fund
	SARPBAC Retirement Fund Member Information Booklet

10. SERVICES AVAILABLE TO THE PUBLIC FROM SARPBAC AND HOW TO GAIN ACCESS TO THOSE SERVICES²²

1. The services provided by SARPBAC are those prescribed in the LRA, in its Constitution and collective agreements.
2. These services are primarily available to persons who fall within its registered scope.

11. PUBLIC INVOLVEMENT RELATING TO SARPBAC²³

The exercise of SARPBAC's powers and the performance of its duties and the public involvement pertaining thereto are regulated by the LRA, SARPBAC's Constitution and the relevant SARPBAC collective agreements.

12. LEGISLATION IN TERMS OF WHICH RECORDS ARE HELD²⁴

1. SARPBAC may hold records relating to, *inter alia*, the following legislation:
 - 1.1. Pension Funds Act, No. 24 of 1956
 - 1.2. Income Tax Act, No. 58 of 1962
 - 1.3. Companies Act, No. 71 of 2008
 - 1.4. Copyright Act, No. 98 of 1978
 - 1.5. Regional Services Councils Act, No. 109 of 1985

²² Section 14(1)(b)(iv) of PAIA.

²³ Section 14(1)(b)(v) of PAIA.

²⁴ Section 51(1)(b)(iii) of PAIA.

- 1.6. Value Added Tax Act, No. 89 of 1991
 - 1.7. Occupational Health and Safety Act No. 85 of 1993
 - 1.8. Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993
 - 1.9. Labour Relations Act, No. 66 of 1995
 - 1.10. Basic Conditions of Employment Act, No. 55 of 1998
 - 1.11. Employment Equity Act, No. 55 of 1998
 - 1.12. Skills Development Levies Act, No. 9 of 1999
 - 1.13. Unemployment Insurance Act, No. 63 of 2001
2. This list is not exhaustive.

ANNEXURE A**FORM 2****REQUEST FOR ACCESS TO RECORD**

[Regulation 7]

NOTE:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The Information Officer

(Address)

E-mail address: Fax number:

Mark with an "X"

 Request is made in my own name Request is made on behalf of another person.

PERSONAL INFORMATION	
Full Names	<input type="text"/>
Identity Number	<input type="text"/>
Capacity in which request is made <i>(when made on behalf of another person)</i>	<input type="text"/>
Postal Address	<input type="text"/>
Street Address	<input type="text"/>
E-mail Address	<input type="text"/>
Contact Numbers	Tel. (B): <input type="text"/> Facsimile: <input type="text"/>
	Cellular: <input type="text"/>
Full names of person on whose behalf request is made <i>(if applicable)</i> :	<input type="text"/>
Identity Number	<input type="text"/>
Postal Address	<input type="text"/>

Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		
PARTICULARS OF RECORD REQUESTED			
<i>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. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)</i>			
Description of record or relevant part of the record:			
Reference number, if available			
Any further particulars of record			
TYPE OF RECORD <i>(Mark the applicable box with an "X")</i>			
Record is in written or printed form			
Record comprises virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>			
Record consists of recorded words or information which can be reproduced in sound			
Record is held on a computer or in an electronic, or machine-readable form			

FORM OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Printed copy of record <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of record on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of record on compact disc drive <i>(including virtual images and soundtracks)</i>	
Copy of record saved on cloud storage server	

MANNER OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Personal inspection of record at registered address of public/private body <i>(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)</i>	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format <i>(including transcriptions)</i>	
E-mail of information <i>(including soundtracks if possible)</i>	
Cloud share/file transfer	
Preferred language <i>(Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)</i>	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED	
<i>If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.</i>	
Indicate which right is to be exercised or protected	

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

FEES	
a)	<i>A request fee must be paid before the request will be considered.</i>
b)	<i>You will be notified of the amount of the access fee to be paid.</i>
c)	<i>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.</i>
d)	<i>If you qualify for exemption of the payment of any fee, please state the reason for exemption</i>
Reason	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication <i>(Please specify)</i>

Signed at _____ this _____ day of _____ 20 _____

Signature of Requester / person on whose behalf request is made

FOR OFFICIAL USE

<i>Reference number:</i>	
<i>Request received by: (State Rank, Name And Surname of Information Officer)</i>	
<i>Date received:</i>	
<i>Access fees:</i>	
<i>Deposit (if any):</i>	

Signature of Information Officer

PART B- POPIA & PRIVACY POLICY

POLICY TO ADDRESS THE REQUIREMENTS OF THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013

1. LIST OF DEFINITIONS, ACRONYMS AND ABBREVIATIONS

These acronyms and abbreviations are in addition to those prescribed for the PAIA Manual. These definitions, acronyms and abbreviations shall be read to have the below mentioned meanings assigned to them regardless of the use of a capital letter or not in this policy.

1. **“Data subject”**

Means the person to whom personal information relates.

2. **“Information”**

Means both personal information and special personal information (as defined below).

3. **“Operator”**

Means a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of that party. Reference in this policy should also be read as a reference to an operator who SARPBAC has appointed to process information.

4. **“Personal information”**

Means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—
 (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
 (b) information relating to the education or the medical, financial, criminal or employment history of the person; (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person; (d) the biometric information of the person;
 (e) the personal opinions, views or preferences of the person; (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; (g) the views or opinions of another individual about the person; and (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

5. **“Special personal information”**

Means information which relates to a data-subject's: (a) the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a data subject; or (b) the criminal behaviour of a data subject to the extent that such information relates to- (i) the alleged commission by a data subject of any offence; or (ii) any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings.

6. **“Processing”**

Means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; (b) dissemination by means of transmission, distribution or making available in any other form; or (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

7. **“Record”**

Means any recorded information- (a) regardless of form or medium, including any of the following— (i) Writing on any material; (ii) information produced, recorded or stored by means of any tape recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored; (iii) label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means; (iv) book, map, plan, graph or drawing; (v) photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced; (b) in the possession or under the control of a responsible party; (c) whether or not it was created by a responsible party; and (d) regardless of when it came into existence.

8. **“Responsible party”**

Means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information.

2. INTRODUCTION

1. The purpose of this policy is to give effect to the provisions of POPIA and set out how a data subject’s information will be used by SARPBAC.
2. The protection of personal information is important to SARPBAC, and it strives to comply with all applicable laws and regulations related thereto.
3. This policy should be read in conjunction with the PAIA manual. SARPBAC reserves the right to amend all policies and/or procedures related to PAIA, POPIA and/or information in its sole discretion. **Data subjects are accordingly required to check this document frequently to make themselves aware of any such amendments.**
4. To the extent that any provision hereof contradicts or is inconsistent with POPIA or PAIA and such contradiction or inconsistency is not permissible in terms of POPIA or PAIA, the provisions of POPIA and PAIA apply.
5. Data subjects who fall within SARPBAC’s registered scope are obliged to provide SARPBAC with information that enables SARPBAC to perform its lawful, legislative and contractual obligations in terms of the LRA read with POPIA, the SARPBAC Constitution, the relevant collective agreements and other applicable legislation. **The law, accordingly, permits the processing of such information without the data subject’s consent. In circumstances where consent is needed for SARPBAC to collect information, by providing the information to SARPBAC, the data subject consents to the provisions of this policy. Should the data subject not consent, he/she/it**

should expressly advise SARPBAC as such in writing when the information is submitted.

6. POPIA enumerates the rights of data subjects and sets down eight conditions for the lawful processing of personal information to be followed by the responsible party, namely: accountability of the responsible party; the processing limitation; the purpose specification; the further processing specification; information quality; openness; security safeguards; and data subject participation.

3. KEY CONTACT DETAILS FOR ACCESS TO INFORMATION OF SARPBAC

1. An “Information Officer” in relation to, a public body means an Information Officer or Deputy Information Officer as contemplated in terms of section 1 or 17 of PAIA, or in relation to a private body means the head of a private body as contemplated in section 1 of PAIA.
2. The details of SARPBAC’s Information Officer are the same as those set out above in the PAIA Manual.

Information Officer	Gary Wilson
SARPBAC’S registered postal address	PO Box 13238, Mowbray, Cape Town, South Africa, 7705
SARPBAC’S registered physical address	Ground Floor, Stone House, Stonefountain Terrace 95 Klipfontein Road, Rondebosch, Cape Town, South Africa, 7700
Telephone number	021 686 4281 / 081 417 9721
Fax number	021 685 8048
Email Address	gary@sarpbac.org.za
Website	www.sarpbac.org.za

4. LAWFUL PROCESSING OF PERSONAL INFORMATION

SARPBAC aims to process the information of its data subjects in accordance with POPIA, which includes its processing the information in the manner set out below:

Condition 1: Accountability²⁵

SARPBAC aims to ensure that the conditions set out in this chapter 3 of PAIA and all measures that give effect to such conditions are complied with.²⁶

²⁵ Section 8 of POPIA.

²⁶ Condition 1: Section 8 of POPIA.

Condition 2: Processing limitation²⁷

1. Information which SARPBAC may process in relation to a data subject includes the following:
 - 1.1. Personal information and special personal information and all information provided by a data subject to SARPBAC including that provided in terms of the LRA, SARPBAC's Constitution, the relevant collective agreements or in terms of other legislation;
 - 1.2. Correspondence sent by the data subject or his/her/its agent to SARPBAC including any attachments thereto;
 - 1.3. Details of a data subject's interactions with SARPBAC.
2. SARPBAC endeavours not to collect special personal information, and will only do so when the processing thereof is carried out with the consent of the data subject,²⁸ the information has deliberately been made public by the data subject,²⁹ or it is necessary to perform its obligations under law.³⁰
3. SARPBAC aims to process information of data subjects:
 - 3.1. lawfully and in a reasonable manner that does not infringe the privacy of the data subject;³¹
 - 3.2. that is adequate, relevant, and limited to the purpose for which the information is processed;³²
 - 3.3. to comply with its obligations imposed on it by the LRA;³³
 - 3.4. to protect a legitimate interest of the data subject;³⁴
 - 3.5. in a manner which allows it to properly perform its public law duties;³⁵ and
 - 3.6. in a manner which allows it to pursue the legitimate interests of SARPBAC and/or of a third party to whom the information is supplied.³⁶
4. Information may be provided to SARPBAC directly or indirectly.
5. SARPBAC mainly collects information from employers falling within its scope, trade unions who have as members employees falling in SARPBAC's scope, employers of these employees and from employers and employees. SARPBAC also comes into possession of information when information is given to it directly by the data subject including as part of a written application form, electronically or telephonically.³⁷
6. SARPBAC will as far as possible, as a measure of first resort, collect information directly from the data subject, but may in certain instances collect information from another source when the collection of the information from another source will not prejudice a legitimate interest of the data subject.³⁸ **SARPBAC may also collect information from its auditors**

²⁷ Sections 9-12 of POPIA.

²⁸ Section 27(1)(a) of PAIA.

²⁹ Section 27(1)(e) of PAIA.

³⁰ Section 27(1)(b) of PAIA.

³¹ Condition 2: Section 9 of PAIA.

³² Condition 2: Section 10 of POPIA.

³³ Condition 2: Section 11(1)(c) of POPIA.

³⁴ Condition 2: Section 11(1)(d) of POPIA.

³⁵ Condition 2: Section 11(1)(e) of POPIA.

³⁶ Condition 2: Section 11(1)(f) of POPIA.

³⁷ Condition 2: Section 12 of POPIA.

³⁸ Condition 2: Section 12(2)(c) of POPIA.

or third parties appointed by it to assist with its obligations, which a data subject consents to, unless expressly advised otherwise in writing.

7. The information processing by SARPBAC may, in certain instances, be necessary for the proper performance by it of its lawful, legislative, contractual and public law duties. If not, **the data subject consents to the processing thereof in terms of this policy by providing it to SARPBAC, unless specified otherwise in writing when the information is provided.** Such information may also have already been made public by the data subject.³⁹

Condition 3: Purpose specification⁴⁰

1. SARPBAC, or an operator appointed by SARPBAC, processes information for, *inter alia*, the following purposes:
 - 1.1. To provide all persons falling within the registered scope with advice and services as permitted in terms of the LRA, SARPBAC's Constitution and collective agreements;
 - 1.2. Record keeping and maintaining databases;
 - 1.3. To determine levies payable;
 - 1.4. To determine provident fund and related contributions;
 - 1.5. To verify whether the salaries and benefits paid to employees are in accordance with the relevant Main Collective Agreement, other collective agreements or other legislation;
 - 1.6. To deal with disputes referred to SARPBAC, or disputes against SARPBAC or to which SARPBAC is joined as a party;
 - 1.7. To perform verification exercises as envisaged in terms of SARPBAC's Constitution and the LRA;
 - 1.8. To enforce and give effect to the provisions of the LRA, SARPBAC's Constitution, the relevant Main Collective Agreement or other agreements concluded within SARPBAC;
 - 1.9. To update SARPBAC's website to *inter alia* include information which is in SARPBAC's and/or the data subjects falling within SARPBAC's scope/the public's legitimate interests;
 - 1.10. To comply with laws and statutory obligations applicable to SARPBAC or otherwise;
 - 1.11. To contact the data subject regarding SARPBAC related issues which may impact the data subject;
 - 1.12. To allow SARPBAC to make lawful decisions in relation to the data subjects;
 - 1.13. To protect the legitimate interests of a data subject;
 - 1.14. To pursue the legitimate interests of SARPBAC or of a third party to whom the information is supplied; and

³⁹ Condition 2: Section 12(2)(a) of POPIA.

⁴⁰ Sections 13-14 of POPIA; Section 14(1)(c)(i) of PAIA; Section 51(1)(c)(i) of PAIA.

- 1.15. As otherwise permitted in terms of POPIA or other legislation.
2. SARPBAC accordingly primarily processes information with the object of complying with the obligations imposed upon it in terms of its Constitution, the relevant collective agreements and the LRA, which purpose is ordinarily apparent, explicitly or implicitly, at the time that the information is collected.⁴¹
3. SARPBAC retains records as long as:
 - 3.1. the retention thereof is necessary to achieve the purpose for which the information was collected;⁴²
 - 3.2. the retention thereof is required or authorised by law,⁴³
 - 3.3. SARPBAC reasonably needs to retain the record for longer for lawful purposes related to its functions or activities,⁴⁴ and/or
 - 3.4. the retention of the record is required by a contract between the parties thereto.⁴⁵
4. The destruction or deletion of a record of information held by SARPBAC is done in a manner that prevents its reconstruction in an intelligible form.⁴⁶

Condition 4: Further processing limitation⁴⁷

1. SARPBAC primarily processes a data subject's information for the purpose for which it was originally collected, unless otherwise permitted in terms of POPIA.
2. **By providing the information to SARPBAC, the data subject consents to it being further processed by SARPBAC in performing its functions as prescribed in the LRA, its Constitution and collective agreements.**
3. Without limiting SARPBAC's rights to further process in terms of POPIA, it is hereby recorded that SARPBAC may also further processes information⁴⁸:
 - 3.1. when the information has deliberately been made public by the data subject;⁴⁹ and/or
 - 3.2. when the information is necessary for the conduct of proceedings in a court or tribunal that has commenced or is reasonably contemplated.⁵⁰

Condition 5: Information quality⁵¹

1. Data subjects that provide information to SARPBAC must ensure that information is accurate, up to date, not misleading and complete in all respects. The data subject must immediately advise SARPBAC of any change to his/her/its information. SARPBAC will if

⁴¹ Condition 3: Section 13 of POPIA.

⁴² Condition 3: Section 14(1) of POPIA.

⁴³ Condition 3: Section 14(1)(a) of POPIA.

⁴⁴ Condition 3: Section 14(1)(b) of POPIA.

⁴⁵ Condition 3: Section 14(1)(c) of POPIA.

⁴⁶ Condition 3: Section 14(5) of POPIA.

⁴⁷ Section 15 of POPIA.

⁴⁸ Condition 4: Section 15 of POPIA.

⁴⁹ Condition 4: Section 15(3)(b) of POPIA.

⁵⁰ Condition 4: Section 15(c)(iii) of POPIA.

⁵¹ Section 16 of POPIA.

notified assist where possible in this regard, having regard to the purpose for which the information is processed or further processed.⁵²

2. The data subject indemnifies and holds SARPBAC harmless from any loss, damages or injury that it may incur as a result of the provision of incorrect information to SARPBAC
3. A data subject has the right, subject to certain limitations, to ask SARPBAC to update, correct or delete his/her/its information. We will require proof of identity and/or authority, where appropriate, before making changes to information.

Condition 6: Openness⁵³

1. SARPBAC as far as reasonably possible maintains the documentation of all processing operations under its responsibility as referred to in sections 14 and 51 of PAIA.⁵⁴
2. When data subjects provide SARPBAC with information and such information is collected by SARPBAC, data subjects are deemed to have read this policy and consented to SARPBAC's non-compliance with section 18 of POPIA,⁵⁵ and agree that such non-compliance would not prejudice the legitimate interests of the data subject.⁵⁶
3. SARPBAC hereby informs the data subject of the following rights, subject to the limitations prescribed in POPIA:
 - 3.1. the right of access to and the right to rectify the information collected;⁵⁷
 - 3.2. the right to object to the processing of information as referred to in section 11(3);⁵⁸ and
 - 3.3. the right to lodge a complaint to the Information Regulator, the contact details of which are set out below:⁵⁹

Contact details of the Information Regulator	
Website	https://inforegulator.org.za https://inforegulator.org.za/complaints/
Email address	enquiries@inforegulator.org.za
Telephone number	010 023 5200 / 010 023 5241/42
Fax number	086 500 3351

4. Notwithstanding a data subject's right to contact the Information Regulator, if a data subject holds the view that information has been dealt with contrary to POPIA, the data subject should, however, first approach SARPBAC to afford SARPBAC the opportunity to deal with and resolve any issues where appropriate.

⁵² Condition 5: Section 16 of POPIA.

⁵³ Sections 17-18 of POPIA.

⁵⁴ Condition 6: Section 17 of POPIA.

⁵⁵ Condition 6: Section 18(4)(a) of POPIA.

⁵⁶ Condition 6: Section 18(4)(b) of POPIA.

⁵⁷ Condition 6: Section 18 (1)(h)(iii) of POPIA.

⁵⁸ Condition 6: Section 18 (1)(h)(iv) of POPIA.

⁵⁹ Condition 6: Section 18 (1)(h)(v) of POPIA.

Condition 7: Security safeguards⁶⁰

1. SARPBAC aims to take reasonable measures in compliance with POPIA to secure the integrity and confidentiality of information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent loss, damage, unauthorised destruction or unlawful access or processing of information.⁶¹
2. SARPBAC endeavours to obtain commitments from all service providers/operators in respect of information security to ensure that appropriate references to data confidentiality, integrity, and availability of information are included, as well as suitable data protection policies and procedures. This is an ongoing process.
3. Where there are reasonable grounds to believe that the information of a data subject has been accessed or acquired by any unauthorised person, SARPAC will, as soon as reasonably possible after the discovery of the compromise, notify the Regulator and the data subject, unless the identity of such data subject cannot be established.⁶²
4. A data subject who provides his/her/its information to SARPBAC, however, holds SARPBAC harmless from any loss, damages or injury that he/she/it has or may incur as a result of an unauthorised person accessing or acquiring the information.

Condition 8: Data subject participation⁶³

1. A data subject, having provided adequate proof of identity, has the right:
 - 1.1. to request SARPBAC to confirm, free of charge, whether or not SARPBAC holds personal information about the data subject; and
 - 1.2. to request from SARPBAC the record or a description of the personal information about the data subject held by SARPBAC, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information— within a reasonable time; at a prescribed fee (if any); in a reasonable manner and format; and in a form that is generally understandable.⁶⁴
2. SARPBAC may or must, as the case may be, refuse to disclose any information so requested, to which the grounds for refusal of access to records set out in the applicable sections of chapter 4 of part 2 and chapter 4 of part 3 of PAIA apply.⁶⁵
3. A data subject may, in the prescribed manner, and subject to the limitations prescribed in PAIA and POPIA, request SARPBAC to:

⁶⁰ Condition 7: Sections 19-22 of POPIA; Section 14(1)(c)(v) of PAIA; Section 51(1)(c)(iv) of PAIA.

⁶¹ Condition 7: Section 19(1)(a)-(b) of POPIA and section 20(a)-(b) of POPIA.

⁶² Condition 7: Section 20(a)-(b) of POPIA.

⁶³ Condition 8: Section 23-15 of POPIA.

⁶⁴ Condition 8: Section 23(1)(a)-(b) of POPIA.

⁶⁵ Condition 8: Section 23(4)(a) of POPIA.

- 3.1. correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
 - 3.2. destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14 of POPIA.⁶⁶
4. The provisions of sections 18 and 53 of PAIA, read with Regulation 7 of the Regulations relating to PAIA, apply to requests made in terms of section 23 of POPIA.⁶⁷

5. CATEGORIES OF RECIPIENTS TO WHOM THE PERSONAL INFORMATION MAY BE SUPPLIED⁶⁸

1. SARPBAC may in certain instances share information with third parties.
2. By data subjects providing information to SARPBAC, he/she/it consents that SARPBAC may supply information to the following categories of recipients:

Recipients or Categories of recipients	SARPBAC discloses personal information:
Any court, administrative or judicial forum, arbitration, statutory commission	If consent is not deemed to be present or is expressly refused, SARPBAC discloses personal information on the following grounds: <ul style="list-style-type: none"> • where this is appropriate for the purposes described above; • to comply with the obligations imposed on it by contract, the LRA and other legislation; • to protect a legitimate interest of the data subject • which is necessary for it to properly perform a public law duty; • which is necessary for pursuing the legitimate interests of SARPBAC and/or of a third party to whom the information is supplied; • to comply with a judicial proceeding, court order, or other legal obligation, or regulatory or government inquiry.
South African Revenue Service	
Anyone making a successful application in terms of PAIA or POPIA	
SARPBAC Retirement Fund	
Professional advisors, such as attorneys, law firms, tax advisors, accountants and/or auditors	
The courts, SAPS and law enforcement agencies	
Cloud storage entities	
The Information Regulator	
Service providers as deemed necessary by SARPBAC	
SARPBAC Central Committee	
SARPBAC Sub-Committees	
Panelists	
General Secretary	

⁶⁶ Condition 8: Section 24(1)(a)-(b) of POPIA.

⁶⁷ Condition 8: Section 25 of POPIA.

⁶⁸ Section 14(1)(c)(iii) of PAIA; Section 51(1)(c)(iii) of PAIA.

6. PLANNED TRANSBORDER FLOWS OF INFORMATION⁶⁹

SARPBAC may transfer data trans-border and will do so in accordance with POPIA. SARPBAC, *inter alia*, utilises third party cloud storage providers outside of South Africa.

7. PROVISION OF INFORMATION OF THIRD PARTIES TO SARPBAC

Where a data subject has provided SARPBAC with another data subject's information, the data subject must only provide such information to SARPBAC in compliance with POPIA which should preferably include such data subject's consent. The data subject sending the information to SARPBAC indemnifies and holds SARPBAC harmless against any liability or loss which may be incurred by SARPBAC or its employees as a result of a data subject breaching this undertaking.

8. AUTHORITY

Where a data subject provides information to SARPBAC on behalf of a juristic person, he/she warrants that he/she has the necessary authority to do so.

9. CCTV & RECORDINGS

All data subjects who enter on any SARPBAC premises or premises from where SARPBAC operates consent to the release to and processing by SARPBAC of CCTV footage in which they appear or recordings of their voices, regardless of whether such footage/recordings is/are the property of SARPBAC or otherwise. This footage/recordings may be used to monitor compliance with SARPBAC's rules, agreements, regulations and procedures and/or for security purposes.

10. LIMITATION AND DISCLAIMER

1. The PAIA manual and POPIA policy was prepared for the sole and exclusive use of SARPBAC.
2. It has been prepared for general information purposes only, and it should not be considered a substitute for specific professional advice.
3. The PAIA manual and POPIA policy may not be reproduced or distributed to any other party, whether in whole or in part, without prior written permission of the Information Officer, except as required by law.
4. In the absence of an express written agreement to the contrary, SARPBAC accepts no responsibility and will not be liable for any consequences whatsoever arising from any use of or reliance on the PAIA manual and POPIA policy or any of its contents.

⁶⁹ Section 14(1)(c)(iv) of PAIA; Section 51(1)(c)(iv) of PAIA.

5. If any provision of this policy is held to be invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions of this policy shall continue in full force and effect as if this policy had been executed with the invalid, illegal or unenforceable provision eliminated.

Gary Wilson
Information Officer
South African Road Passenger Bargaining Council