

## **PAIA MANUAL**

**SchoemanLaw Inc**

(Registration No: **2013/021044/21**)

of **Dock Road Junction, Cnr Dock Road and Stanley Street, V&A Waterfront,  
Cape Town, 8001 (registered place of business)**

and

First Floor, 1 Van Der Lingen Street, Cnr van der Lingen Street and Pastorie  
Avenue, Paarl, 7646 (winelands office)

(as the "**Company**")

Prepared in accordance with Section 51 of the Promotion of Access to Information Act  
2 of 2000 as amended.

### **1 DEFINITIONS AND INTERPRETATION**

1.1 In this Manual, unless the context otherwise indicates:

1.1.1 any reference to the singular (including in the expressions defined in includes the plural and vice versa, any reference to natural persons includes legal persons (corporate or unincorporated) and vice versa and any reference to a gender includes the other genders;

1.1.2 headings and the use of bold typeface are to be ignored;

1.1.3 references to any enactment shall include references to such enactment as it may, from time to time be amended, supplemented or re-enacted;

1.1.4 any reference to a number of days shall be a reference to calendar days, unless it is specifically stated that such reference is a reference to Business Days;

1.1.5 when a number of days is prescribed, the days shall be reckoned exclusively of the first day and inclusively of the last day unless the last day

falls on a Saturday, Sunday or public holiday in which case the last day shall be the next succeeding Business Day;

- 1.1.6 a reference to a recital, clause, sub-clause, paragraph, sub-paragraph, schedule or appendix is, unless indicated to the contrary, a reference to a recital, clause, sub-clause, paragraph, sub-paragraph, schedule or appendix of this Manual;
  - 1.1.7 where any term is defined within the context of any particular clause or sub-clause, the term so defined shall, unless it appears clearly from such clause or sub-clause that such term has limited application to the relevant clause or sub-clause only, bear the meaning ascribed to it for all purposes in terms of this Manual, notwithstanding that such term has not been defined in 1.1.
- 1.2 **“Data Subject”** means the person to whom Personal Information relates;
  - 1.3 **“Deputy Information Officer”** means the person to whom any power or duty conferred or imposed on an Information Officer by POPIA has been delegated;
  - 1.4 **“Head In Relation to a Private Body”** means
    - 1.4.1 in the case of a natural person, that natural person or any person duly authorised by that natural person;
    - 1.4.2 in the case of a partnership, any partner of the partnership or any person duly authorised by the partnership;
    - 1.4.3 in the case of a juristic person:
      - 1.4.3.1 the chief executive officer or equivalent officer of the juristic person or any person duly authorised by that officer; or
      - 1.4.3.2 the person who is acting as such or any person duly authorised by such acting person.

- 1.5 **“Information Officer”** means the head of a Private Body;
- 1.6 **“Information Regulator”** means the Regulator established in terms of Section 39 of POPIA;
- 1.7 **“PAIA”** or the **“Act”** means the Promotion of Access to Information Act 2 of 2000, as amended from time to time;
- 1.8 **“Person”** means a natural person or a juristic person;
- 1.9 **“Personal Information”** means
- 1.9.1 Information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to: 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;
  - 1.9.2 Information relating to the education or the medical, financial, criminal or employment history of the person;
  - 1.9.3 Any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person, the biometric information of the person;
  - 1.9.4 The personal opinions, views or preferences of the person; 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;
  - 1.9.5 The views or opinions of another individual about the person; and 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.

1.10 **“Personal Requester”** means a Requester seeking access to a Record containing Personal Information about the Requester;

1.11 **“POPIA”** means The Promotion of Personal Information Act 4 of 2013, as amended from time to time;

1.12 **“Private Body”** means

1.12.1 a natural person who carries or has carried on any trade, business or profession, but only in such capacity

1.12.2 a partnership which carries or has carried on any trade, business or profession; or

1.12.3 any former or existing juristic person, but excludes a Public Body.

1.13 **“Processing”** means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including the collection, receipt, Recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use, dissemination by means of transmission, distribution or making available in any other form, or merging, linking, as well as restriction, degradation, erasure or destruction of information;

1.14 **“Public Body”** means

1.14.1 any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or

1.14.2 in any other functionary or institution when:

1.14.2.1 exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or

1.14.2.2 exercising a public power or performing a public function in terms of any legislation.

1.15 **“Requester”** means in relation to a Private Body means any person, including, but not limited to, a Public Body or an official thereof, making a Request for Access to a Record of the organisation or a person acting on behalf of such person;

1.16 **“Request for Access”** means a Request for Access to a Record of the organisation in terms of section 50 of PAIA;

1.17 **“Record”** means any person other than the Requester in relation to a Request for Access to a Record held by the organisation; and

1.18 **“Third Party”** means in relation to a Request for Access to a Record held by the organisation, means any person other than the Requester.

## **2 APPLICABILITY AND AVAILABILITY OF THIS MANUAL (“Manual”)**

2.1 The Promotion of Access to Information Act No 2 of 2000 as amended (the “Act” or “PAIA”) gives effect to section 32 of the Constitution, which provides that everyone has the right to access information held by the state or any other person (or Private Body), when that information is required for the exercise or protection of rights. The Act sets out the procedural requirements attached to requests for information, the requirements that requests must meet, and the grounds for refusing requests.

2.2 The Act also recognises that the right to access information must be balanced with other rights and should be subject to limitations including, but not limited to, limitations aimed at the reasonable protection of privacy and commercial confidentiality.

2.3 This Manual informs Requesters of procedural and other requirements that a request for information must meet. Further, this Manual in its entirety is available

for inspection, free of charge, at the Company's offices and website (see details below).

### **3 THE COMPANY AND INFORMATION OFFICER CONTACT DETAILS**

Information Officer (previously referred to as the "PAIA Head"): **Nicolene Francina Schoeman-Louw**

Postal/Physical Address: **Dock Road Junction, Cnr Dock Road and Stanley Street, V&A Waterfront, Cape Town, 8001 and First Floor, 1 Van Der Lingen Street, Cnr van der Lingen Street and Pastorie Avenue, Paarl, 7646**

**Company Registration number: 2013/021044/21**

Telephone Number: **0214255604**

Website: **www.schoemanlaw.co.za**

E-mail Address of Information Officer: **nf.schoeman@schoemanlaw.co.za**

Deputy Information Officer: **Gideon Daniel Louw**

Postal/Physical Address: **Dock Road Junction, Cnr Dock Road and Stanley Street, V&A Waterfront, Cape Town, 8001 and First Floor, 1 Van Der Lingen Street, Cnr van der Lingen Street and Pastorie Avenue, Paarl, 7646**

**Company Registration number: 2013/021044/21**

Telephone Number: **0214255604**

Website: **www.schoemanlaw.co.za**

E-mail Address of Information Officer: **finance@schoemanlaw.co.za**

### **4 DUTIES OF THE INFORMATION OFFICER**

4.1 The Information Officer and/or the Deputy Information Officer of the organisation are responsible for:

4.1.1 Publishing and proper communication of the Manual i.e. creating Manual awareness;

4.1.2 The facilitation of any Request for Access;

4.1.3 Providing adequate notice and feedback to the Requester;

- 4.1.4 Determining whether to grant a Request for Access to a complete/full Record or only part of a Record;
- 4.1.5 Ensuring that access to a Record, where so granted, is provided timeously and in the correct format; and
- 4.1.6 Reviewing the Manual for accuracy and communicating any amendments.

## **5 SOUTH AFRICAN INFORMATION REGULATOR GUIDE**

The South African Information Regulator, as directed by the Protection of Personal Information Act 4 of 2013 as amended (“POPIA”), is the custodian of PAIA manuals, (previously this was the responsibility of the South African Human Rights Commission) enquiries should be directed to:

### **The South African Information Regulator:**

Email: [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za).

Address: JD House  
27 Stiemens Street  
Braamfontein  
Johannesburg  
2001

Website: <https://www.justice.gov.za/inforeg>

## **6 SECTION 52 NOTICE: VOLUNTARY DISCLOSURE AND AUTOMATIC AVAILABILITY OF CERTAIN RECORDS**

The following information is automatically available, and does not have to be requested in terms of this Manual:

- 6.1 Website Terms and Conditions and Privacy Policy
- 6.2 Company Profile/Brochure
- 6.3 Terms of Sale/Service

## **7 THE COMPANY’S RECORDS**

7.1 Information is available in terms of the following legislation to the persons or entities specified in such legislation:

7.1.1 Companies Act 71 of 2008 as amended

7.1.2 Income Tax Act 58 of 1962 as amended

7.1.3 Value Added Tax Act 89 of 1991 as amended

7.1.4 Labour Relations Act 66 of 1995 as amended

7.1.5 Basic Conditions of Employment Act 75 of 1997 as amended

7.1.6 Employment Equity Act 55 of 1998 as amended

7.1.7 Skills Development Levies Act 9 of 1999 as amended

7.1.8 Unemployment Insurance Act 30 of 1966 as amended

7.1.9 Compensation of Occupational Injuries and Diseases Act 130 of 1993 as amended

7.1.10 Occupational Health and Safety Act 85 of 1993 as amended

7.1.11 Electronic Communications and Transactions Act 25 of 2002 as amended

8 The Information Officer and/or Deputy Information Officer may only provide access to any Record held by the organisation to a Requester if:

8.1 The Record is required for the exercise or protection of any right;

8.2 The Requester complies with the procedural requirements relating to a Request for Access to that Record.

9 Access to the documents as set out below may be subject to the grounds of refusal, which grounds of refusal are set out in clause 10 below:

## 9.1 Customer Records

A "**Customer**" in this Manual refers to a natural person or juristic entity that receives goods or services from the Company. Customer Records include the following:

9.1.1 Any such Records which may pertain to products sold and/or services rendered by the Company including:

9.1.1.1 Records provided by a Third Party and which are in the possession of the Company;

9.1.1.2 Records provided by a customer to a Third Party whilst acting for or on behalf of the Company;

9.1.1.3 Records generated by or within the Company relating to its customers.

## 9.2 Supplier Records

A **"Supplier"** in this Manual refers to a natural person or juristic entity that provides services or goods to the Company. Supplier Records include the following:

9.2.1 Any such Records which may pertain to products bought and/or services received by the Company including;

9.2.2 Records provided by a Third Party and which are in the possession of the Company;

9.2.3 Records provided by a supplier to a Third Party whilst acting for or on behalf of the Company;

9.2.4 Records generated by or within the Company relating to its suppliers.

## 9.3 Staff Records

**"Staff"** in the Manual refers to any person who works for or provides any service to or on behalf of the Company and who receives or is entitled to receive remuneration therefore. Staff further refers to any member of personnel or any other such person who assists in carrying out or conducting the business of the Company, and which includes but is not limited to directors, whether executive or non-executive, all permanent, temporary and part-time staff as well as contract workers. Staff Records include inter alia the following:

- 9.3.1 personal Records which are provided by the Staff themselves and/or by any other Third Party;
- 9.3.2 internal evaluation Records as well as other internal Records;
- 9.3.3 conditions of the personnel's employment and other personnel-related contractual and legal Records;
- 9.3.4 correspondence relating to personnel; and
- 9.3.5 such training schedules, courses and material as have been provided from time to time.

#### **9.4 Private Body Records**

Private Body Records are Records which include, but are not limited to, Records pertaining to the affairs of the Company, and which include:

- 9.4.1 operational Records;
- 9.4.2 databases;
- 9.4.3 financial Records;
- 9.4.4 information technology systems and documents;
- 9.4.5 internal correspondence;
- 9.4.6 marketing Records;
- 9.4.7 product and/or service Records;
- 9.4.8 statutory Records;
- 9.4.9 documentation pertaining to the Processing operations as required by section 17 of the Protection of Personal Information Act 4 for 2013 as amended;
- 9.4.10 internal policies and procedures.

#### **9.5 Records held by third parties as well as those which pertain to third parties**

- 9.5.1 Staff or Personnel, Customer or Private Body Records which are in the possession of another party on the Company's behalf.

9.5.2 Records held by the Company pertaining to other parties, including without limitation, correspondence, financial Records, product and service Records, contract Records, and Records which relate to the Company's suppliers, contractors and/or service providers.

## **10 GROUNDS FOR THE REFUSAL OF ACCESS TO RECORDS**

10.1 The Company may refuse a request for information on, inter alia, the basis of any of the following, as provided for in terms of Chapter 4 of the Act:

10.1.1 The mandatory protection of the privacy of a Third Party who is a natural person, to avoid the unreasonable disclosure of Personal Information which concerns such natural person, irrespective of whether such person is alive or deceased at the time of such request.

10.2 The mandatory protection of the commercial information of a Third Party, if the Record contains:

10.2.1 trade secrets pertaining to a Third Party;

10.2.2 financial, commercial, scientific or technical information, other than trade secrets, of a Third Party, the disclosure of which would or could be likely to cause harm to the commercial or financial interests of that Third Party;  
or

10.2.3 information supplied in confidence by a Third Party, the disclosure of which could reasonably be expected to put that Third Party at a disadvantage in contractual or other negotiations, or to prejudice that Third Party in commercial competition.

10.3 The mandatory protection of confidential information of third parties if disclosure would constitute an action for breach of a duty of confidence owed to that Third Party in terms of an agreement.

- 10.4 The mandatory protection of the safety of individuals, and the protection of property.
- 10.5 The mandatory protection of Records which would be privileged from disclosure in legal proceedings.
- 10.6 The protection of the Company's commercial activities which shall include but not limited to Records which contain:
- 10.6.1 the Company's trade secrets;
  - 10.6.2 financial, commercial, customer, scientific or technical information, which, if disclosed could or would be likely to cause harm to the Company's commercial or financial interests;
  - 10.6.3 information, the disclosure of which could reasonably be expected:
    - 10.6.3.1 to put the Company at a disadvantage in contractual or other negotiations; or
    - 10.6.3.2 to prejudice the Company in commercial competition.
  - 10.6.4 computer programs owned by the Company and defined as such in terms of the Copyright Act 98 of 1978.
- 10.7 The mandatory protection of research information of the Company or a Third Party, if disclosure would expose the identity of the Company or the Third Party, the researcher or the subject matter of the research to serious disadvantage.
- 10.8 Requests for information that are, in the Company's reasonable opinion, manifestly frivolous or vexatious or which involve a substantial and unreasonable diversion of resources.

## **11 REQUEST PROCEDURE**

- 11.1 A Requester requiring access to information held by the Company is to make such a request in the prescribed form and submit the request, together with the

prescribed fee and deposit, if applicable, to the Company's Information Officer at the post, physical or email address as set out in clause 3 above.

11.2 The prescribed form is available on request from the Information Officer, and which must be completed with enough particularity to enable the Company to identify:

11.2.1 the Record/s requested;

11.2.2 the identity of the Requester;

11.2.3 the form of access required, if the request is granted;

11.2.4 the postal address, fax number or email address of the Requester.

11.3 The Requester must:

11.3.1 state that the Record is required in order to exercise or protect a right;  
and

11.3.2 provide details of the nature of the right to be exercised or protected.

11.4 Subject to the Company's rights which pertain any extension as set out in the Act relating to extensions in terms of the Act, it will process the request within 30 (thirty) days of receipt of a request unless the Requester has submitted special reasons to the Company, which the Company's reasonable satisfaction, support that the above time periods be dispensed with.

11.5 The Company will give the requestor written notice of its decision as to whether the request is granted, which written notice shall include the reasons for denying such request, should such request be declined.

11.6 The said 30 (thirty) day period may be extended for a further period not exceeding 30 (thirty) days if the request is for a large number of Records, or the request requires a search for information which cannot reasonably be obtained within the original 30 (thirty) day period. The Information Officer will notify the Requester in writing should an extension be sought.

- 11.7 If a request is made on behalf of another person, such Requester must submit, to the reasonable satisfaction of the Company, proof of the capacity in which the Requester is making the request.
- 11.8 If an individual is unable to submit a request in the prescribed form on account of illiteracy or disability, such a person is entitled to make the request orally.
- 11.9 The Requester is required to pay the prescribed fee, and deposit where applicable, before the request will be considered.

## **12 ACCESS TO RECORDS**

- 12.1 In terms of the Act, a requestor will only be given access to a Record held by the Company if:
- 12.1.1 the Record is required for the exercise or protection of a right;
  - 12.1.2 the requestor has complied with all procedural requirements, set out herein and in terms of the Act, relating to a Request for Access to a particular Record including making the request in the prescribed format; and
  - 12.1.3 access to that Record is not refused on a ground for refusal as provided for in terms of the Act.

## **13 UNDISCOVERABLE RECORD**

- 13.1 Should all reasonable steps have been taken to find a Record requested, and there are reasonable grounds for believing that the Record:
- 13.1.1 Is in the organisation's possession, but cannot be found; or
  - 13.1.2 Simply does not exist;
  - 13.1.3 The head of the organisation must, by way of affidavit or affirmation, notify the Requester that it is not possible to provide access to that Record. The affidavit or affirmation must provide full account of all steps taken to find the Record in question or to determine whether the Record

exists, as the case may be, including all communication with every person who conducted the search on behalf of the head.

## **14 REMEDIES AVAILABLE SHOULD THE COMPANY REFUSE A REQUEST**

### **14.1 Internal Remedies**

The Company does not have any internal appeal procedures.

### **14.2 External Remedies**

A Requester or a Third Party, who is dissatisfied with the decision of the Company in relation to a Request for Access to a Record may, within 30 (thirty) days of such decision apply to the High Court, or any other Court having jurisdiction, for relief.

## **15 FEES**

15.1 When a request is received by the Company it will require the Requester, on notice, other than a personal request made in respect of a person's own personal Records, to pay the prescribed request fee (if any), before further Processing the request.

15.2 The notice must state:

15.2.1 The amount of the deposit payable (if any);

15.2.2 That the Requester may lodge a complaint with the Information Regulator or an application with a court against the tender or payment of the request fee, or the tender or payment of a deposit, as the case may be; and

15.2.3 The procedure (including the period) for lodging the complaint with the Information Regulator or the application,

- 15.3 If the search for the Record has been made and the preparation of the Record for disclosure would require more time than that prescribed for this purpose, the Information Officer will notify the Requester to pay, as a deposit, the prescribed portion of the access fee which would then be payable if the request is granted.
- 15.4 The Company will withhold a Record until the Requester has paid the prescribed fees together with the deposit, where applicable.
- 15.5 A Requester whose Request for Access to a Record has been granted, must pay an access fee for reproduction as well as for the search and preparation thereof, and for the time reasonably required in excess of the prescribed hours to search for and prepare the Record for disclosure.
- 15.6 If a deposit has been paid in respect of a request which is refused, then the Company shall repay the deposit to the Requester.

## **16 ANNUAL REPORTING OBLIGATION**

- 16.1 The Company must comply annually with section 83(4) of the Act, the Head of a Private Body must submit to the Information Regulator an annual report about requests for access to Records received and processed by the Private Body.

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

Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		
<b>PARTICULARS OF RECORD REQUESTED</b>			
<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			
<b>TYPE OF RECORD</b> <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**  
*(Mark the applicable box with an "X")*

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**  
*(Mark the applicable box with an "X")*

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**

*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.*

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:	

<b>FEEES</b>	
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**

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

\_\_\_\_\_  
**Signature of Information Officer**