

PAIA MANUAL

**PREPARED IN ACCORDANCE WITH SECTION 51 OF
THE PROMOTION OF ACCESS TO INFORMATION ACT
NO. 2 OF 2000, as amended (“*the Act*”)**

FOR



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1. INTRODUCTION:

- 1.1 The Act gives effect to Section 32 of the Constitution of the Republic of South Africa, which provides that everyone has the right to access information held by the State, as well as information held by another person (*or private body*) when such privately held information is required to exercise a right or to protect a right.
- 1.2 Section 50(1) of the Act stipulates that a requester (*an individual who requests information*) must be given access to any record of a private body, if: -
 - 1.2.1 that record is required for the exercise or protection of any rights;
 - 1.2.2 that person complies with the procedural requirements in the Act relating to a request for access to that record; and
 - 1.2.3 that access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of the ACT.
- 1.3 This manual is compiled in accordance with the provisions of Section 51(1) of the Act, which stipulates that the manual must contain: -
 - 1.3.1 the postal and street address, phone and fax number and, if available, electronic mail address of the head of the body;
 - 1.3.2 a description of the guide referred to in Section 10, if available, and how to obtain access to it;
 - 1.3.3 the latest notice in terms of Section 52(2), if any, regarding the categories of record of the body which are available without a person having to request access in terms of the Act;
 - 1.3.4 a description of the records of the body which are available in accordance with any other legislation;
 - 1.3.5 sufficient detail to facilitate a request for access to a record of the body, a description of the subjects on which the body holds records and the categories of records held on each subject; and
 - 1.3.6 such other information as may be prescribed.

2. LIST OF ACRONYMS AND ABBREVIATIONS

2.1	“DIO”	Deputy Information Officer;
2.2	“IO”	Information Officer;
2.3	“Minister”	Minister of Justice and Correctional Services;
2.4	“PAIA”	Promotion of Access to Information Act No. 2 of 2000, as amended
2.5	“POPIA”	Protection of Personal Information Act No.4 of 2013;
2.6	“Regulator”	Information Regulator;
2.7	“Republic”	Republic of South Africa;
2.8	“TMJ”	Tomlinson Mnguni James Incorporated, an attorney firm.

3. PURPOSE OF PAIA MANUAL

This PAIA Manual is useful for the public to:

- 3.1 check the categories of records held by TMJ which are available without a person having to submit a formal PAIA request;
- 3.2 have a sufficient understanding of how to make a request for access to a record of TMJ by providing a description of the subjects on which TMJ holds records and the categories of records held on each subject;
- 3.3 know the description of the records of TMJ which are available in accordance with any other legislation;
- 3.4 access all the relevant contact details of the Information Officer and Deputy Information Officer who will assist the public with the records they intend to access;
- 3.5 know the description of the guide on how to use PAIA, as updated by the Regulator and how to obtain access to it;

- 3.6 know if TMJ will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;
- 3.7 know the description of the categories of data subjects and of the information or categories of information relating thereto;
- 3.8 know the recipients or categories of recipients to whom the personal information may be supplied;
- 3.9 know if TMJ has planned to transfer or process personal information outside the Republic of South Africa and the recipients or categories of recipients to whom the personal information may be supplied; and
- 3.10 know whether TMJ has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed.

4. COMPANY OVERVIEW:

Tomlinson Mnguni James Inc. is a professional firm of attorneys, notaries and conveyancers.

Further information relating to the firm is available on the company's website at www.tmj.co.za.

5. KEY CONTACT DETAILS FOR ACCESS TO INFORMATION

COMPANY NAME: Tomlinson Mnguni James Inc (*"the company"*).

REGISTRATION NUMBER: 1995/006978/21

5.1 Information Officer:

Chamonie Buys

Tel: 011 784 2634

E-mail: chamonieb@tmj.co.za

5.2 Deputy Information Officer

Judd Robert Reid

Tel: 031 566 2207

E-mail: judd@tmj.co.za

5.3 Access to information general contact

E-mail: informationofficer@tmj.co.za

5.4 Head Office: Pietermaritzburg, Kwazulu-Natal Province

Postal Address: P.O. Box 271
Pietermaritzburg
3200

Docex Address: Docex 7, Pietermaritzburg

Physical Address: 12 Montrose Park Boulevard
Victoria Country Club Estate Office Park
170 Peter Brown Drive
Pietermaritzburg
3201

Telephone Number: 033 341 9100

E-mail: tmj@tmj.co.za

5.5 Durban Branch: Umhlanga, Kwazulu-Natal Province

Postal Address: PO Box 25303
Gateway
4321

Docex Address: Docex 10, Umhlanga

Physical Address: Suite 201, Ridge 6
20 Ncondo Place
Umhlanga Rocks
4320

Telephone Number: 031 566 2207

E-mail: durban@tmj.co.za

5.6 JHB Branch: Sandton, Gauteng Province

Physical Address: 1st Floor Daisy Street Office Park
135 Daisy Street
Sandton
2196

Telephone Number: 011 784 2634

E-mail: jhb@tmj.co.za

6. GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE

- 6.1. The Regulator has, in terms of section 10(1) of PAIA, as amended, updated and made available the revised Guide on how to use PAIA (“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.
- 6.2. The Guide is available in each of the official languages and in braille.
- 6.3. The aforesaid Guide contains the description of:
- 6.3.1 the objects of PAIA and POPIA;
 - 6.3.2 the postal and street address, phone and fax number and, if available, electronic mail address of:
 - 6.3.2.1 the Information Officer of every public and private body; and
 - 6.3.2.2 every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA and section 56 of POPIA;
 - 6.3.3 the manner and form of a request for:
 - 6.3.3.1 access to a record of a public body contemplated in section 11; and
 - 6.3.3.2 access to a record of a private body contemplated in section 50;
 - 6.3.4 the assistance available from the IO of a public body in terms of PAIA and POPIA;
 - 6.3.5 the assistance available from the Regulator in terms of PAIA and POPIA;
 - 6.3.6 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:
 - 6.3.6.1 an internal appeal;
 - 6.3.6.2 a complaint to the Regulator; and
 - 6.3.6.3 an application to 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;

- 6.3.7 the provisions of sections 14 and 51 requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
 - 6.3.8 the provisions of sections 15 and 52 providing for the voluntary disclosure of categories of records by a public body and private body, respectively;
 - 6.3.9 the notices issued in terms of sections 22 and 54 regarding fees to be paid in relation to requests for access; and
 - 6.3.10 the regulations made in terms of section 92.
- 6.4 Members of the public can inspect or make copies of the Guide from the offices of the public and private bodies, including the office of the Regulator, during normal working hours.
- 6.5 The Guide can also be obtained:
- 6.5.1 upon request to the Information Officer;
 - 6.5.2 from the website of the Regulator (<https://www.justice.gov.za/infoereg/>).
- 6.6 A copy of the Guide is also available in the following two official languages, for public inspection during normal office hours:
- 6.6.1 English
 - 6.6.2 Afrikaans

7. CATEGORIES OF RECORDS OF TMJ WHICH ARE AVAILABLE TO THE PUBLIC WITHOUT A PERSON HAVING TO REQUEST ACCESS IN TERMS OF THE PAIA:

- 7.1. Information relating to the company
- 7.2. Fields of expertise and professional staff
- 7.3. Publications of/by the company; and
- 7.4. Any other information made available on the company's website.

8. DESCRIPTION OF RECORDS OF TMJ WHICH ARE AVAILABLE IN TERMS OF OTHER LEGISLATION

(please note that the list is non exhaustive)

Records which are maintained in accordance with the following legislation:

- 8.1. Companies Act 61 of 1973
- 8.2. Legal Practice Act 28 of 2014
- 8.3. Income Tax Act 58 of 1962
- 8.4. Value Added Tax Act 89 of 1991
- 8.5. Regional Services Councils Act 109 of 1985
- 8.6. Unemployment Insurance Act 63 of 2001
- 8.7. Labour Relations Act 66 of 1995
- 8.8. Basic Conditions of Employment Act 75 of 1997
- 8.9. Employment Equity Act 55 of 1998
- 8.10. Skills Development Act 97 of 1998
- 8.11. Pension Fund Act 24 of 1956
- 8.12. Medical Schemes Act No. 131 of 1993
- 8.13. Occupational Health and Safety Act 85 of 1993
- 8.14. Compensation for Occupational Injuries and Diseases Act 130 of 1993
- 8.15. Promotion of Access to Information Act 2 of 2000
- 8.16. Protection of Personal Information Act 4 of 2013
- 8.17. Rules of The Attorneys' Profession

9. RECORDS HELD BY THE COMPANY WHICH ARE NOT AUTOMATICALLY AVAILABLE WITHOUT A REQUEST IN TERMS OF THE ACT:

9.1 Records relating to the company:

9.1.1 Partnership information

9.1.2 Client database

9.1.3 Fee structure

9.1.4 Commercial contracts with service providers

9.1.5 Company guidelines, policies and procedures

9.1.6 Trademarks

9.1.7 Business plans

9.1.8 General operational information

9.1.9 Systems; and

9.1.10 Procedures and statutory records.

9.2 Employee Records:

9.2.1 Personal records of present, past and prospective employees and directors of the company

9.2.2 Employment contracts

9.2.3 Personnel guidelines, policies and procedures

9.2.4 Operational Information.

9.3 Client Records:

- 9.3.1 Clients' personal information
- 9.3.2 Clients' intellectual property; and
- 9.3.3 Any other information relating to clients.

9.4 Other Records:

- 9.4.1 Financial records
- 9.4.2 Correspondences; and
- 9.4.3 Contractual records;

10. PROCESSING OF PERSONAL INFORMATION

10.1 Purpose of Processing Personal Information

TMJ mainly collects and processes personal information to render legal services.

TMJ's clients' personal information are only processed for the purpose for which it was collected, and as agreed ("the services"), which includes, but is not limited to, the following:

- a) property conveyancing services
- b) labour and dispute resolution services
- c) criminal litigation
- d) civil litigation
- e) divorce and related family law matters
- f) accounting and invoicing
- g) commercial legal services

- h) deceased estate administration
- i) trust and company administration
- j) estate planning
- k) other fiduciary legal services, such as Will drafting.

10.2 Description of categories of data subjects and of the information or categories of information relating thereto

TMJ processes information of the following categories of data subjects:

- a) Clients
- b) Service Providers
- c) Employees

The type of information processed will depend on the need for which it is collected and will be processed for that purpose only.

Whenever possible, TMJ will inform the data subject as to the information required and the information deemed optional. Examples of personal information the data controller collects include, but is not limited to:

- a) full names, surname and identity number
- b) contact details, such as e-mail address, website address, postal address, landline and mobile contact numbers, geographic location
- c) marital status
- d) number of dependants
- e) place of residence
- f) employment details and history

- g) business, assets and financial information
- h) bank account details
- i) next-of-kin details
- j) correspondence which is private or confidential
- k) all information relating to the requirements set out in the Financial Intelligence Centre Act, 38 of 2001, as amended, with which the firm is obliged to comply
- l) any other information requested by us and voluntarily provided by the client/service provider/employee.

10.3 The recipients or categories of recipients to whom the personal information may be supplied

TMJ will only share the data subjects' personal information to external parties in the instances where disclosure is made at the data subjects' request or with the data subject's consent and in line with the type of services rendered to the data subject.

If the data subject's consent has been obtained, these other external companies or organisations will only need to access information that pertains to their function and information will only be shared with those companies/organisations/departments when it is relevant to their function. Third parties will be subject to the same regulations as applicable to TMJ.

TMJ may, however, be obliged to disclose information relating to regulatory and legal purposes, without the data subject's consent.

10.4 Planned transborder flows of personal information

TMJ does not, regularly, share information across borders.

TMJ will, however, only transfer the personal information collected from the data subject across borders once it has obtained consent to do so from the data subject. TMJ will also ensure that technical security requirements are met in order to secure the confidentiality of the information.

10.5 General description of Information Security Measures to be implemented by TMJ to ensure the confidentiality, integrity and availability of the information

- 10.5.1 TMJ takes every precaution to protect and safeguard the information it collects, stores and assimilates to prevent any and all unauthorised access to the information. TMJ makes use of international standards of compliance and safety to secure the data subject's information.
- 10.5.2 TMJ's employees have been trained on its POPIA policy and the POPI Act. TMJ undertakes to continually upskill and train its employees with regards to its POPIA policy and the POPI Act.
- 10.5.3 The following additional steps are taken by TMJ to prevent data breaches from occurring:
- 10.5.3.1 Limit access to its most valuable data – it is not necessary for all the employees of TMJ to have access to certain information.
- 10.5.3.2 Employee security awareness training.
- 10.5.3.3 Regular software updates.
- 10.5.3.4 Anti-virus applications are installed on all of the employees' laptops/computers.
- 10.5.3.5 Employees change and strengthen their passwords regularly. Employees will not share their username and password with anyone. Employees will log off their laptops and tablets after every session. TMJ makes use of two token identification with regards to passwords and logging onto laptops.
- 10.5.3.6 TMJ's printers are configured in such a manner that printing is only released when the employee inserts his/her personal password. Once an employee's printing has been released, no documentation must be left in or beside the printer.
- 10.5.3.7 TMJ has a cyber breach response plan in place.

- 10.5.3.8 Clean desks policies – employees ensure that their desks are kept clean and that no documentation is left lying on their desk unattended.
- 10.5.3.9 Physical security – TMJ, at all of its branches has ensured that there is more than adequate security, twenty-four seven, at their premises to ensure the safety and security of any data held at its premises whether it be in hardcopy, contained on the physical laptops of employees or stored on a server. Where required, TMJ restricts employee access to the server.
- 10.5.3.10 Secure Sockets Layer (SSL) – TMJ’s website makes use of SSL certificates. An SSL certificate is a digital certificate that both authenticates the identity of the website and encrypts sensitive information so that any passwords, addresses and other important information cannot be intercepted or read by anyone other than the intended recipient.
- 10.5.3.11 Employees only make use of the Wi-Fi provided by TMJ which is secure, and under no circumstances are employees allowed to make use of non-secure, public Wi-Fi.
- 10.5.3.12 Employees are prohibited from taking any pictures of a data subject’s personal information so as to disseminate it via any electronic means such as via Whatsapp, SMS or post it on any social media platform.

11. PROCEDURE FOR OBTAINING ACCESS TO INFORMATION:

- 11.1 All requests shall be made on the prescribed form. The form may be requested from the company’s Information Officer or may be obtained from the Information Regulator’s website at <https://inforegulator.org.za/paia/>.
- 11.2 The prescribed form shall be submitted to the Information Officer via e-mail at informationofficer@tmj.co.za or at any of TMJ’s branches by delivering the application in an envelope addressed to the Information Officer.

- 11.3 The requester must provide sufficient details to enable the company to identify:
- 11.3.1 the records requested
 - 11.3.2 the requester (*and if an agent is lodging the request, proof of capacity*)
 - 11.3.3 the form of access required
 - 11.3.4 the postal address, e-mail address or fax number of the requester in South Africa
 - 11.3.5 if the requester wishes to be informed of the decision in any manner (in addition to being informed in writing), the manner and particulars thereof
 - 11.3.6 the right which the requester is seeking to protect with an explanation of the reason the record is required to exercise or protect the right.
- 11.4 Should any person request documents on behalf of another person the same procedure as set out in 11.1 and 11.2 applies if the requester is requesting information on behalf of another person or on behalf of a permanent employee of the company.
- 11.5 The Information Officer of the company, as soon as reasonably possible and within 30 (THIRTY) days after the request has been received, shall decide whether or not to grant the request.
- 11.6 If the request is granted, the Information Officer will notify the requester of the fees in terms of Section 54 of the Act, applicable for the reproduction of the record/s and/or access fees, the reasonable time spent in preparing the documents and postal charges (if applicable).

12. PRESCRIBED FEES

The following applies to requests (*other than personal requests*):

- 12.1 A requester is required to pay the prescribed fees before a request will be processed;
- 12.2 If the preparation of the record requested requires more than the prescribed hours, a deposit shall be paid (*of not more than one third of the access fee which would be payable if the request were granted*);

- 12.3 A requester may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 12.4 Records may be withheld until the fees have been paid.
- 12.5 The fee structure is available on the website of the Information Regulator at <https://inforegulator.org.za/paia/>.

13. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS:

- 13.1 The Act provides a number of grounds on which a request for access to information must be refused.
- 13.2 The Information Officer of the company may refuse access to records if:
 - 13.2.1 the record contains trade secrets of a third party;
 - 13.2.2 the record contains financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or
 - 13.2.3 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;
 - 13.2.4 the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement;
 - 13.2.5 its disclosure could reasonably be expected to endanger the life or physical safety of an individual;
 - 13.2.6 the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege;
 - 13.2.7 the record contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose the third party or a person that is or will be carrying out the research on behalf of the third party, or the subject matter of the research, to serious disadvantage; or

13.2.8 it is in terms of any other ground provided in the complete list of the grounds for refusal, which is contained in Chapter 4 of the Act.

14. AVAILABILITY OF THE MANUAL:

A copy of this manual is available:

14.1 on our website: www.tmj.co.za;

14.2 TMJ's head office or any of its 2 branches for public inspection during normal business hours;

14.3 to any person upon request and upon the payment of a reasonable prescribed fee, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made;

14.4 to the Information Regulator upon request.

15. UPDATING OF MANUAL

This manual shall be updated on a regular basis.

Issued by:



CHAMONIE BUYS
INFORMATION OFFICER
DIRECTOR
TOMLINSON MNGUNI JAMES INC.

DATE: 27 MAY 2025