

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



**tomlinson  
mnguni  
james**

ATTORNEYS

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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. 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](http://www.tmj.co.za)

## 3. CONTACT PARTICULARS:

**COMPANY NAME:** Tomlinson Mnguni James Inc (*"the company"*).  
**REGISTRATION NUMBER:** 1995/006978/21

**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  
**Telefax Number:** 033 349 3005

**E-mail:** [tmj@tmj.co.za](mailto:tmj@tmj.co.za)

**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  
**Telefax Number:** 031 566 2503  
**E-mail:** [durban@tmj.co.za](mailto:durban@tmj.co.za)

**Cape Town Branch:** **Cape Town, Western Cape Province**

**Physical Address:** 1<sup>st</sup> Floor  
A1 Estuary Suites  
The Estuaries  
Oxbow Crescent  
Century City  
7441

**Telephone Number:** 021 823 9928

**E-mail:** [capetown@tmj.co.za](mailto:capetown@tmj.co.za)

**Johannesburg Branch:** **Sandton, Gauteng Province**

**Physical Address:** 1<sup>st</sup> Floor Daisy Street Office Park  
135 Daisy Street  
Sandton  
2196

**Telephone Number:** 011 784 2634

**Telefax Number:** 011 784 2636

**E-mail:** [jhb@tmj.co.za](mailto:jhb@tmj.co.za)

**MANAGING DIRECTOR:** Mr. Michael Browning

**Telephone Number:** 033 341 9100

**E-mail:** [mikeb@tmj.co.za](mailto:mikeb@tmj.co.za)

<p><b>INFORMATION OFFICER:</b> Ms. Chamonie Buys</p> <p><b>Telephone Number:</b> 011 784 2634</p> <p><b>E-mail:</b> <a href="mailto:chamonieb@tmj.co.za">chamonieb@tmj.co.za</a></p>
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#### 4. GUIDE IN TERMS OF SECTION 10 OF THE ACT

The Act grants a requester access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.

Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.

Any person wishing to exercise any right contemplated in the Act may obtain a copy of the information guide issued by the South African Human Rights Commission from:

The South African Human Rights Commissioner

PAIA Unit

The Research and Documentation Department

**Head Office address:** Braampark Forum 3

33 Hoofd Street

Braamfontein

Postal address: Private Bag 2700

Houghton

2041

Telephone: 011 877 3600

E-mail: [Act@sahrc.org.za](mailto:Act@sahrc.org.za)

Website: [www.sahrc.org.za](http://www.sahrc.org.za)

**Kwazulu-Natal Office:** First Floor

136 Victoria Embankment

Durban

Telephone: 031 304 7323/4/5

Telefax: 031 304 7323

E-mail: [msibisi@sahrc.org.za](mailto:msibisi@sahrc.org.za)

**5. INFORMATION OR DOCUMENTS AVAILABLE IN TERMS OF OTHER LEGISLATION** (*please note that the list is non exhaustive*)

**Records are maintained in accordance with the following legislation:**

- 5.1. Companies Act 61 of 1973
- 5.2. Legal Practice Act 28 of 2014
- 5.3. Income Tax Act 58 of 1962
- 5.4. Value Added Tax Act 89 of 1991
- 5.5. Regional Services Councils Act 109 of 1985
- 5.6. Unemployment Insurance Act 63 of 2001
- 5.7. Labour Relations Act 66 of 1995

- 5.8. Basic Conditions of Employment Act 75 of 1997
- 5.9. Employment Equity Act 55 of 1998
- 5.10. Skills Development Act 97 of 1998
- 5.11. Pension Fund Act 24 of 1956
- 5.12. Medical Schemes Act No. 131 of 1993
- 5.13. Occupational Health and Safety Act 85 of 1993
- 5.14. Compensation for Occupational Injuries and Diseases Act 130 of 1993
- 5.15. Promotion of Access to Information Act 2 of 2000
- 5.16. Protection of Personal Information Act 4 of 2013
- 5.17. Rules of The Attorneys' Profession

**6. RECORDS OR INFORMATION AUTOMATICALLY AVAILABLE TO THE PUBLIC WITHOUT FOLLOWING THE PROCEDURE OF THE ACT:**

- 6.1. Information relating to the company
- 6.2. Fields of expertise and professional staff
- 6.3. Publications of the company, business bytes, *lawtalks* and e-updates; and
- 6.4. Any other information made available on the company's website.

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

- 7.1. Records relating to the company:
  - 7.1.1. Partnership information
  - 7.1.2. Client database
  - 7.1.3. Fee structure
  - 7.1.4. Commercial contracts with service providers
  - 7.1.5. Company guidelines, policies and procedures
  - 7.1.6. Trademarks

- 7.1.7. Business plans
  - 7.1.8. General operational information
  - 7.1.9. Systems; and
  - 7.1.10. Procedures and statutory records.
- 7.2. Employee Records:
- 7.2.1. Personal records of present, past and prospective employees and directors of the company
  - 7.2.2. Employment contracts
  - 7.2.3. Personnel guidelines, policies and procedures
  - 7.2.4. Operational Information.
- 7.3. Client Records:
- 7.3.1. Clients' personal information
  - 7.3.2. Clients' intellectual property; and
  - 7.3.3. Any other information relating to clients.
- 7.4. Other Records:
- 7.4.1. Financial records
  - 7.4.2. Correspondences; and
  - 7.4.3. Contractual records;

**8. PROCEDURE FOR OBTAINING ACCESS TO INFORMATION:**

- 8.1. All requests shall be made on the prescribed form. The form may be requested from the company's Information Officer and is also available on the website of the South African Human Rights Commission at [www.sahrc.org.za](http://www.sahrc.org.za).
- 8.2. The prescribed form shall be submitted to the Information Officer at her address or e-mail address.



- 8.3. The requester must provide sufficient details to enable the company to identify:
- 8.3.1 the records requested
  - 8.3.2 the requester (*and if an agent is lodging the request, proof of capacity*)
  - 8.3.3 the form of access required
  - 8.3.4 the postal address, e-mail address or fax number of the requester in South Africa
  - 8.3.5 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
  - 8.3.6 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.
- 8.4. Should any person request documents on behalf of another person the same procedure as set out in 8.1 and 8.2 applies if the requester is requesting information on behalf of another person or on behalf of a permanent employee of the company.
- 8.5. 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.
- 8.6. 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).

## 9. PRESCRIBED FEES

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

- 9.1 A requestor is required to pay the prescribed fees before a request will be processed;
- 9.2 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*);
- 9.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;

- 9.4 Records may be withheld until the fees have been paid.
- 9.5 The fee structure is available on the website of the South African Human Rights Commission at [www.sahrc.org.za](http://www.sahrc.org.za).

## **10. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS:**

- 10.1. The Act provides a number of grounds on which a request for access to information must be refused.
- 10.2. The Information Officer of the company may refuse access to records if:
- 10.2.1. the record contains trade secrets of a third party;
  - 10.2.2. 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
  - 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;
  - 10.2.4. 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;
  - 10.2.5. its disclosure could reasonably be expected to endanger the life or physical safety of an individual;
  - 10.2.6. the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege;
  - 10.2.7. 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
  - 10.2.8. 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.

**11. AVAILABILITY OF THE MANUAL:**

An unabridged version of this manual is available for inspection by the general public upon request, during office hours and free of charge at all the offices of Tomlinson Mnguni James Incorporate, on the company's website and a copy may also be requested from the South African Human Rights Commission and the Kwazulu-Natal Law Society.

The Act, forms for requesting information and the fee structure prescribed under the Act are also available on the website of the Department of Justice and Correctional Service. ([http://www.justice.gov.za/forms/form\\_paia.htm](http://www.justice.gov.za/forms/form_paia.htm)).

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