

PAIA MANUAL

(AS REQUIRED BY SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT NO. 2 OF 2000 ("PAIA"))

1. INTERPRETATION

In this document, clause headings are for convenience and shall not be used in its interpretation unless the context clearly indicates a contrary intention –

1.1 an expression which denotes –

- 1.1.1 any gender includes the other genders;
- 1.1.2 a natural person includes an artificial or juristic person and vice versa;
- 1.1.3 the singular includes the plural and vice versa;

1.2 the following expressions shall bear the meanings assigned to them below and similar expressions bear corresponding meanings –

- 1.2.1 "**this document**" means this document together with all of its annexures, as amended from time to time;
- 1.2.2 "**the Company**" means Jason Michael Smith Incorporated Attorneys;
- 1.2.3 "**the Act**" means the Promotion of Access to Information Act No. 2 of 2000, as amended from time to time including the regulations promulgated in terms of the Act;
- 1.2.4 "**request liaison officer**" means the person duly authorised by the head of the company and appointed by the company to facilitate or assist the head of the company with any request in terms of the Act.

1.3 any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the signature date, and as amended or substituted from time to time;

1.4 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this document;

1.5 where any term is defined within a particular clause other than this, that term shall bear the meaning ascribed to it in that clause wherever it is used in this document;

1.6 where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;

1.7 any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be;

1.8 the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific example/s;

1.9 insofar as there is a conflict in the interpretation of or application of this document and the Act, the Act shall prevail;

1.10 this document does not purport to be exhaustive of or comprehensively deal with every procedure provided for in the Act. A requester is advised to familiarise his/her/itself with the provisions of the Act before lodging any request with the company.

2. AIM

To facilitate the requests for access to records of JMS as provided for in the Act.

3. DETAILS

Company name: Jason Michael Smith Incorporated Attorneys
Registration No.: 2008/003855/21
Postal address: PO Box 52-2720
Saxonwold
2132
Physical address: Suite 1
26 Baker Street
Rosebank
Johannesburg
Gauteng
2195
Docex: 26, Rosebank
Tel No: 011 447 8188
Fax No: 086 56 36 567
Website: www.jmsainc.com
Email: info@jmsainc.com

4. CONTACT DETAILS OF THE HEAD OF THE COMPANY AND REQUEST LIAISON OFFICER

The head of the company is Mr. Jason Smith. His contact details are as follows:

Tel No: 011 447 8188
Email: jason@jmsainc.com

The request liaison officer is Ms. Madelein Cumming. Her contact details are as follows:

Tel No: 011 447 8188
Email: madelein@jmsainc.com

5. HUMAN RIGHTS COMMISSION ("HRC") GUIDE

5.1 The HRC has compiled a guide, as contemplated in section 10 of the Act, containing information to assist any person who wishes to exercise any right as contemplated in the Act.

5.2 The contact details of the HRC are as follows:

Postal address: Private Bag 2700
Houghton
2041
Tel No: 011 484 8300
Fax No: 011 484 0582
Email: PAIA@sahrc.org.za

Website: www.sahrc.org.za

6. RECORDS AVAILABLE IN TERMS OF ANY OTHER LEGISLATION AS CONTEMPLATED IN SECTION 51 (1) (D) OF THE ACT

Certain records held by the Company are available in terms of legislation other than the Act. The specific records which are available in terms of such legislation are set out in that legislation and these records may in certain instances only be accessed by the persons specified in the relevant legislation. The legislation is as follows:

- 6.1 Currency and Exchanges Act 9 of 1933;
- 6.2 Insolvency Act 24 of 1936;
- 6.3 Pension Funds Act 24 of 1956;
- 6.4 Income Tax Act 58 of 1962;
- 6.5 Administration of Estates Act 66 of 1965;
- 6.6 Stamp Duties Act 77 of 1968;
- 6.7 Companies Act 71 of 2008;
- 6.8 National Building Regulations and Building Standards Act 103 of 1977;
- 6.9 Copyright Act 61 of 1978;
- 6.10 Attorneys Act 53 of 1979;
- 6.11 National Credit Act 34 of 2005
- 6.12 Consumer Protection Act 68 of 2008;
- 6.13 Regional Services Councils Act 109 of 1985;
- 6.14 Trust Property Control Act 57 of 1988;
- 6.15 Value Added Tax Act 89 of 1991;
- 6.16 Occupational Health and Safety Act 85 of 1993;
- 6.17 Compensation for Occupational Injuries and Diseases Act 130 of 1993;
- 6.18 Trade Marks Act 194 of 1993;
- 6.19 Labour Relations Act 66 of 1995;
- 6.20 Tax on Retirement Funds Act 38 of 1996;
- 6.21 Basic Conditions of Employment Act 75 of 1997;
- 6.22 Employment Equity Act 55 of 1998;
- 6.23 Skills Development Act 97 of 1998;
- 6.24 Debt Collectors Act 114 of 1998;
- 6.25 Medical Schemes Act 131 of 1998;
- 6.26 Regulation of Interception of Communications and Provision of Communication-Related Information 7.25Act 70 of 2002;
- 6.27 Securities Services Act 36 of 2004;
- 6.28 Skills Development Levies Act 9 of 1999;
- 6.29 Financial Intelligence Centre Act 38 of 2001 ("FICA");
- 6.30 Unemployment Insurance Act 63 of 2001; and
- 6.31 Unemployment Insurance Contributions Act 4 of 2002.

7. DESCRIPTION OF THE SUBJECTS ON WHICH JMS HOLDS RECORDS AND THE CATEGORIES OF RECORDS HELD ON EACH SUBJECT

The following is a list of the subjects on which the Company holds records and the categories into which these fall. The procedure in terms of which such records may be requested from the Company is set out in Section 10 of this manual.

7.1 Administration

- 7.1.1 Shareholder records Share register Minutes of meetings of the directors of the Company;
- 7.1.2 Records relating to the incorporation of the Company.

7.2 Management

- 7.2.1 Resolutions of the directors of the Company; and
- 7.2.2 Shareholders' agreement between the directors of the Company.

7.3 Finance

- 7.3.1 Accounting records;
- 7.3.2 Tax records;
- 7.3.3 Debtors' records;
- 7.3.4 Creditors' records;
- 7.3.5 Insurance records;
- 7.3.6 Auditors' reports;
- 7.3.7 Annual financial statements;
- 7.3.8 Bank statements and other banking records for business and trust accounts;
- 7.3.9 Invoices issued in respect of debtors and billing information;
- 7.3.10 Records regarding the Company financial commitments; and
- 7.3.11 Fidelity Fund certificates.

7.4 Human Resources

- 7.4.1 List of employees;
- 7.4.2 Employment contracts;
- 7.4.3 Personnel records including personnel details, disciplinary records, performance and/or internal evaluation records;
- 7.4.4 Employee tax information;
- 7.4.5 Insurance Fund contributions;
- 7.4.6 Payroll records;
- 7.4.7 Health and safety records;
- 7.4.8 Skills Development Plan;
- 7.4.9 Loan agreements between the Company and certain employees;
- 7.4.10 Practice Management Manual.

7.5 Clients

- 7.5.1 Files relating to client matters;
- 7.5.2 Client documentation including documentation in terms of FICA;
- 7.5.3 Records regarding legal proceedings involving Clients;
- 7.5.4 Documents prepared for clients including agreements, memoranda, opinions and reports;
- 7.5.5 Correspondence with clients; and
- 7.5.6 Correspondence with third parties.

7.6 Suppliers

- 7.6.1 Supplier lists and details of suppliers;
- 7.6.2 Agreements with suppliers;
- 7.6.3 Information Technology Computer software;
- 7.6.4 Support and maintenance agreements; and
- 7.6.5 Programmes including software license agreements.

7.7 Property

- 7.7.1 Asset registers;
- 7.7.2 Lease agreements in respect of immovable property;
- 7.7.3 Records regarding insurance in respect of movable property; and

7.7.4 Records regarding insurance in respect of immovable property.

7.8 Library information

7.8.1 Publications including books, periodicals and circulars; and

7.8.2 Knowledge Management materials including precedent documents.

7.9 Miscellaneous

7.9.1 Certain miscellaneous documentation.

8. CATEGORIES OF RECORDS WHICH ARE AVAILABLE WITHOUT REQUEST

8.1 No notices relating to the Company have been published by the Minister in terms of section 52(2) of the Act.

8.2 Certain records are available without needing to be requested in terms of the request procedures set out in the Act and provided for in this manual. This information may be inspected, collected, purchased or copied (at the prescribed fee for reproduction) at the South African offices of the Company. Certain information is also available on the Company's website (www.jmsainc.com). The records include:

8.2.1 Marketing brochures;

8.2.2 Newsflashes on legal developments; and

8.2.3 Profiles of individual lawyers.

9. REQUEST PROCEDURE IN TERMS OF THE ACT

9.1 A request for access to records held by the Company in terms of section 50 of the Act must be made on the form contained in the Regulations Regarding the Promotion of Access to Information (Form C). A copy of the form is attached as Annexure A to this manual. The request must be made to the Company at the address or email address, specified in Section 5 above.

9.2 A requester must provide sufficient detail on the prescribed form to allow the Company to identify the record or records which have been requested and the identity of the requester. If a request is made on behalf of another person or entity, the requester must submit details and proof of the capacity in which the requester is making the request, which must be reasonably satisfactory to the Company. The requester is also required to indicate the form of access to the relevant records that is required, and to provide his, her or its contact details in the Republic of South Africa.

9.3 The requester is required to identify the right that he, she or it is seeking to exercise by accessing the records held by the Company and to explain why the particular record or records requested is or are required for the exercise or protection of that right.

9.4 The Company may, and must in certain instances, refuse access to records on any of the grounds set out in Chapter 4 of Part 3 of the Act. These grounds for refusal include: that access would result in the unreasonable disclosure of personal information about a third party, that it is necessary to protect the commercial information of a third party or of the Company itself, that it is necessary to protect the confidential information of a third party, that it is necessary to protect the safety of individuals or property, that a record constitutes privileged information for the purpose of legal proceedings, or that it is necessary to protect the research information of a third party or the Company itself. Access to documents may also be refused on the basis of professional privilege.

- 9.5 the Company is required to inform a requester in writing of its decision in relation to a request. If the requester wishes to be informed of the Company decision in another manner as well, this must be set out in the request and the relevant details included, allowing the Company to inform the requester in the preferred manner.
- 9.6 the Company will make a decision in relation to a request for records within 30 days of receiving it, unless third parties are required to be notified (as discussed in Section 13 below) or the 30-day period is extended as provided for in the Act, and will notify the requester accordingly.
- 9.7 Where a request is refused, a requester may apply to court within 30 days of being informed of the refusal of the request, for an order compelling the record or records requested to be made available to the requester or for another appropriate order. The court will determine whether the records should be made available or not.

10. FEES PAYABLE

- 10.1 A requester has to pay a request fee of R 50.00, other than where the requester is seeking access to a record containing personal information about him, her or itself. This request fee may be paid at the time a request is made, or the person authorised to deal with such requests on the Company behalf may notify the requester to pay the request fee before processing the request any further. A requester may make an application to Court to be exempted from the requirement to pay the request fee.
- 10.2 A requester whose request for access to a record or records held by the Company is granted is also required to pay an access fee for the reproduction of the record or records, and for the search for and the preparation of the records for disclosure. The Company is entitled to withhold a record until the required access fees have been paid. The access fees which are payable are as follows:

Item	Description	Fee
1	Photocopy of an A4-size page or part thereof	R 1.10
2	Printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75
3	For a copy in a computer-readable form on CD	R 70.00
4	Transcription of visual images, for an A4-size page or part thereof	R 40.00
5	Copy of visual images	R 60.00
6	Transcription of an audio record, for an A4-size page or part thereof	R 20.00
7	Copy of an audio record	R 30.00
8	Search and preparation of the record for disclosure – R 30.00 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation	R 30.00 per hour

- 10.3 If the Company is of the opinion that the search for and the preparation of the records requested will require more than six hours, the Company is entitled to ask for a deposit

of one third of the access fees which will be payable in respect of the records requested by the requester. The requester may make an application to Court to be exempted from the requirement to pay this deposit. If a deposit is made and access to the records requested is subsequently refused, the deposit will be repaid to the requester.

11. INFORMATION OR RECORDS NOT FOUND

- 11.1 If all reasonable steps have been taken to find a record, and such a record cannot be found or if the records do not exist, then the Company will notify the requester, by way of an affidavit or affirmation, that it is not possible to give access to the requested record.
- 11.2 The affidavit or affirmation will provide a full account, of all the steps taken to find the record or to determine the existence thereof, including details of all communications by the Company with every person who conducted the search.
- 11.3 If the record in question should later be found, the requester shall be given access to the record in the manner stipulated by the requester unless access is refused by the Company as permitted by the Act (as dealt with in Section 10 above).

12. INFORMATION REQUESTED ABOUT A THIRD PARTY

Where any information is requested from the Company that relates to a third party, the Company is required to notify the third party of the request. The third party has an opportunity to grant his, her or its consent to the disclosure of the record or to make representations as to why the requested record should not be disclosed to the requester. If the Company decides to grant access to the record, it will notify the affected third party again. The third party is entitled to apply to court in relation to that decision. The court will then determine whether the record should be disclosed by the Company or not.

13. OTHER INFORMATION AS PRESCRIBED

The Minister has not prescribed that any further information must be contained in this manual.

ANNEXURE A

**FORM C
REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY**

(Section 53(1) of the Promotion of Access to Information Act 2000 (Act No. 2 of 2000))
[Regulation 10]

A. Particulars of public body

The Head:

B. Particulars of person requesting access to the record

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

Full names and surname: _____

Identity number: _____

Postal address: _____

Fax number: _____

Telephone number: _____

E-mail: _____

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person

Full names and surname: _____

Identity number: _____

D. Particulars of record

(a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
(b) If the provided space is inadequate please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.**

1. Description of the record or relevant part of the record: _____

2. Reference number, if available: _____
3. Any further particulars of the record: _____

E. Fees

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

Reason for the exemption from payment of fees: _____

F. Form of access to record

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

Disability: _____
Form in which record is required: _____

Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request for access in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for the access to the record, if any, will be determined partly by the form in which access is requested.

If the record is in written or printed form:

<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
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If the record consists of visual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):

<input type="checkbox"/>	view the images	<input type="checkbox"/>	copy of the images*	<input type="checkbox"/>	transcription of the images
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If record consists of recorded words or information which can be reproduced in sound:

<input type="checkbox"/>	listen to the soundtrack	<input type="checkbox"/>	transcription of soundtrack*
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If record is held on computer or in an electronic or machine-readable form:

<input type="checkbox"/>	printed copy of record*	<input type="checkbox"/>	printed copy of information derived from the record	<input type="checkbox"/>	copy in computer readable form*
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*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
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G. Particulars of right to be exercised or protected

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

1. Indicate which right is to be exercised or protected: _____

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

H. Notice of decision regarding request for access

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

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

Signed at _____ on this _____ day of _____
2021.

**SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE**