



TIM DU TOIT & CO INCORPORATED

Manual on the Promotion of Access to Information Act 2 of 2000

Prepared in accordance with Section 14 of the
Promotion of Access Information Act 2000, (Act 2 of 2000)

UPDATED JULY 2022

1. INTRODUCTION

- 1.1. Tim du Toit & Co Incorporated (“TDT”) Promotion of Access to Information Manual (“Manual”) is published in terms of Section 51 of the Promotion of Access to Information Act, No. 2 of 2000 (“PAIA”) and section 23 -25 of the Protection of Personal Information Act No.4 of 2014 (“POPIA”).
- 1.2. PAIA gives effect to the provisions of Section 32 of the Constitution, which provides for the right of access to information which is held by the State but also information held by any another person. A person that is entitled to exercise a right or who needs information for the protection of any right, is entitled to access that information, subject to certain restraints.
- 1.3. Section 51 of PAIA creates a legal right to access records (as defined in section 1 of PAIA) of a private body (both natural and juristic), however this right may be negated in circumstances as set out under Chapter 4 of Part 3 of PAIA. In addition, in compliance with POPIA a responsible party who processes personal information must notify the person to whom personal information relates (“Data Subject”) of the manner in which the Data Subject can access their personal information held by the responsible.

2. PURPOSE

- 2.1. The purpose of this manual is to facilitate requests for access to records (including records containing Personal Information (as defined in terms of the TDT [Privacy Policy](#)) of TDT.
- 2.2. Should this Manual not deal with a procedure provided for in PAIA, the Requester or any other interested party is to look at the Act for guidance in relation thereto. Same is to be included as part of the Manual.
- 2.3. A person requesting access to records from TDT (“the Requester”) is advised to familiarise themselves with the provisions of PAIA before making any requests to TDT in terms of PAIA.
- 2.4. TDT makes no representation and gives no undertaking or warranty that any record(s) provided by it to a Requester is complete or accurate, or that such record is fit for any purpose. All users of such records shall use such records entirely at their own risk, and TDT shall not be liable for any loss, expense, liability or claims, howsoever arising, resulting from the use of this Manual or of any record provided by TDT or any error therein.
- 2.5. All users and Requesters irrevocably agree to submit to the laws of the Republic of South Africa and to the exclusive jurisdiction of the Courts of South Africa in respect of any dispute arising out of the use of this Manual or any records provided by TDT.

3. COMPANY OVERVIEW

TDT is a registered legal practice operating under the terms and conditions of the Legal Practice Act 28 of 2014. We specialise in Dispute Resolution, Litigation, Conveyancing, Corporate & Commercial Law, Banking & Financial Law and we offer additional services such as Family Law, Personal Injury Law, Insolvency Law and Risk & Debt Management.

This manual serves to inform members of the public of the categories of information we hold, and which may, subject to the grounds of refusal listed in the Act, be disclosed after

Tim du Toit & Co Incorporated, Reg Nr 1976/002804/21

www.timdutoit.co.za

4 July 2022

evaluation of an access application being made in terms of the Act.

4. INFORMATION REQUIRED UNDER SECTION 51(1)(a) OF PAIA

Name of Private Body	Tim du Toit & Co Incorporated
Head of Private Body	Mr. A Schreiber
Designated Information Officer	Mr. A Schreiber
Deputy Information Officers	Mr. Josua Swart Ms. Mauberine Anne Fortuin Mr. Clinton Lang
Email address for Information Officer	aschreiber@timdutoit.co.za Jos.Swart@timdutoit.co.za Mauberine@timdutoit.co.za clinton.lang@timdutoit.co.za
Postal address	PO Box 36257, Menlo Park, 0102
Street address	433 Rodericks Road, c/o Rodericks Road & Sussex Avenue, Lynnwood, Pretoria, 0081
Phone number	(012) 470 7777
Fax number	(012) 470 7561
Website	www.timdutoit.co.za

5. REQUIREMENTS IN TERMS OF PAIA

5.1. Description of guide referred to in section 10: section 51(1)(b)

The South African Human Rights Commission (as provided for in section 10 of PAIA) has compiled and published by a "Guide on How to Use the Promotion of Access to Information Act 2 of 200". This Guide will assist persons in using and understanding PAIA. The Guide can be accessed via the South African Human Rights website (www.sahrc.org.za).

5.2. Notice in terms of section 52(2) of the PAIA:

At this stage TDT does not have any categories of records which are automatically available without a person having to request access in terms of PAIA, and as such no notice has been published. All categories of records of TDT require a formal request to access such records. Please direct any queries to:

The South African Human Rights Commission: PAIA Unit
The Research and Documentation Department
Private Bag 2700
Houghton
2041
Telephone: 011-877 3600
Fax: 011-403 0668
Website: www.sahrc.org.za
E-mail: PAIA@sahrc.org

5.3. Records available in terms of other legislation: section 51(1)(d)

The following legislation creates the obligation to keep certain records:

1. Administration of Estates Act, No. 66 of 1965
2. Arbitration Act No. 42 of 1965
3. Basic conditions of Employment No. 75 of 1997
4. Broad Based Black Economic Empowerment Act No. 53 of 2003
5. Companies Act No. 71 of 2008
6. Compensation for Occupational Injuries and Diseases Act No. 61 1997
7. Consumer Protection Act No. 68 of 2008
8. Copyright Act No.98 of 1978
9. Currency and Exchanges Act No. 75 of 1980
10. Debt Collectors Act No. 114 of 1998
11. Deeds Registries Act 47 of 1937
12. Electronic Communication and Transaction Act No. 25 of 2002
13. Employment Equity Act No. 55 of 1998
14. Finance Act No. 35 of 2000
15. Financial Advisory and Intermediary Services Act No. 37 of 2002
16. Financial Intelligence Centre Act, No. 38 of 2001
17. Financial Service Board Act No. 97 of 1990
18. Financial Relations Act No. 65 of 1976
19. Harmful Business Practices Act No. 23 of 1999
20. Income Tax Act No. 95 of 1967
21. Insolvency Act No. 24 of 1936
22. Insurance Act No. 27 of 1943
23. Intellectual Property Laws Amendments Act No. 38 of 1997
24. Labour Relations Act No. 66 of 1995
25. Long Term Insurance Act No. 52 of 1998
26. Medical Schemes Act No. 131 of 1998
27. The National Credit Act 34 of 2005
28. Occupational Health & Safety Act No. 85 of 1993
29. Pension Funds Act No. 24 of 1956
30. Post Office Act No. 44 of 1958
31. Prevention and Combating of Corrupt Activities Act No. 12 of 2004
32. Promotion of Access to Information Act 2 of 2000
33. Protection of Businesses Act No. 99 of 1978
34. Promotion of Personal Information Act No. 4 of 2013
35. Regional Services Councils Act No. 109 of 1985
36. SA Reserve Bank Act No. 90 of 1989
37. Short Term Insurance Act No. 53 of 1998
38. Skills Development Levies Act No. 9 of 1999
39. Skills Development Act No. 97 of 1998
40. Spatial Planning and Land Use Management Act 16 of 2013
41. Stamp Duties Act No. 77 of 1968
42. Stock Exchange Control Act No. 1 of 1985

43. Tax on Retirement Funds Act No. 38 of 1996
44. Unemployment Insurance Act No. 63 of 2001
45. Value Added Tax Act No. 89 of 1991
46. Trade Marks Act No. 194 of 1993
47. Unemployment Contributions Act No. 4 of 2002
48. Unemployment Insurance Act No. 63 of 2001
49. Usury Act No. 73 of 1968
50. Value Added Tax Act No. 89 of 1991

Such records will be made available to only those individuals/entities authorised to request access to such records in terms of the particular legislation. Any other persons must follow the request for access of records procedure as outlined in this Manual.

5.4. Subjects and categories of records held by TDT: section 51(1)(e)

PAIA requires that sufficient detail be provided to facilitate a request for access to a record of TDT. A description of the subjects on which TDT holds records and the categories of the records held by each subject can be found in **Annexure “A”** of this Manual, which forms an integral part of this Manual. In addition, reference can be made to TDT’s Privacy Manual for the categories of personal information held.

6. THE PROCESS

Introduction

- 6.1. Access to records held by TDT is not automatic and can be refused by TDT on any of the grounds for refusal contemplated in Chapter 4 of Part 3 of PAIA.
- 6.2. In order to request access to records held by TDT, the Requester must not only identify the right it is seeking to exercise or protect and explain why the record requested is required for the exercise or protection of that right but must also comply with all the procedural requirements set out in PAIA.
- 6.3. If the Requester requests information on behalf of a public body (i.e. state), the Requester must identify that the request for information is in the public’s interest by stipulating adequate reasons.
- 6.4. If the Requestor is making a request on behalf of another person, sufficient proof (to the satisfaction of TDT) of the capacity in which the Requestor is making the request/acting must be submitted. The type of proof required will be advised by TDT upon receipt of request.

Procedural Requirements

- 6.5. In order to facilitate such a request for access to records, the Requester needs to complete the prescribed access form attached hereto as **Annexure “B”**. Please note that the prescribed access form must be completed in full. If not, the process may be delayed until such additional information has been provided.
- 6.6. In terms of section 23(1) of POPI Act, adequate proof of identity is required from the Requestor/Data Subject. Therefore, in addition to the prescribed access form, the Requestor will be required to supply a certified copy of their identification document or any other legally acceptable form of identification.

- 6.7. The request form and proof of identity must be provided to the Information Officer of TDT at the physical address or e-mail set out above. TDT may, in its sole discretion request that original certified copies be provided in certain circumstances such as if the electronic copies provided are not clear or are questionable.
- 6.8. The Requester must provide sufficient detail on the prescribed access form to enable the Information Officer to identify the record requested. When completing the prescribed access form, the Requester should also indicate:
- ✓ which form of access is required;
 - ✓ the right the Requester is seeking to exercise or protect and explain why the requested record is required for the exercise or protection of that right;
 - ✓ whether the Requester wishes to be informed of the decision in any other manner, in addition to a written reply, to state the manner and necessary particulars to be so informed; and
 - ✓ an email address, telephonic contact numbers and postal address in the Republic of South Africa.
- 6.9. If a request is made on behalf of another person, the Requester must show, to the reasonable satisfaction of the Information Officer, that he or she is duly authorised to make such request. A copy of the mandate, board resolution or letter of authority authorising the Requestor to act on behalf of another person is to be submitted with the request.
- 6.10. If an individual is unable to complete the prescribed access form because of illiteracy or disability, such an individual may make the request verbally.
- 6.11. The prescribed access form must be adequately completed, with sufficient information particularly so that the Information Officer of TDT can identify and determine what the access fee will be, should access be granted.
- 6.12. A request will not be processed until the request fee has been paid.

Refusal in terms of PAIA

- 6.13. TDT may refuse access to the requested record of parts thereof as allowed in terms of Chapter 4, namely sections 62 to 70 (inclusive), of PAIA.
- 6.14. In such instances whereby a third party needs to be notified of request in order to authorise or decline access – TDT undertakes to request same from the third party within 21 (twenty-one) days of receipt of the request and to include the required information provided for in terms of section 71(3) of PAIA.
- 6.15. In the event that the request is declined by the third party – TDT cannot be held responsible for same.

Notification of refusal or granting of access to information

- 6.16. Requestors will be informed within 30 (thirty) days of receipt of the prescribed access form if TDT's decision is to refuse access to the information requested based on any of the grounds for refusal as contemplated in Chapter 4 of Part 3 of the PAIA. Take note that the 30 (thirty) day period may be extended for a further 30 (thirty) day period should more time be required to gather the requested information. The Requester will, however, be notified if the initial 30 (thirty) day notice period is to be

extended for a further 30 (thirty) days. The 30 (thirty) day period excludes the time frame stipulated in 6.14 above, should a third party need to be notified.

Refusal since the record cannot be found

- 6.17. If all reasonable steps have been taken by TDT to find the record requested by the Requester and same cannot be found for reasons justifiable as per section 55 of PAIA, the Information Officer shall provide an affidavit or affirmation to the Requester advising that it is not possible to give access to the record requested.
- 6.18. The affidavit or affirmation will comply with all the requirements provided for in terms of section 55(2) of the Act.
- 6.19. In the event the record is found subsequently, TDT undertakes to contact the Requester in order to gain access to same, subsequent to the payment of the applicable access fee.

How will a requester be informed of the outcome of the request?

- 6.20 The requester will be notified of the Information Officer's decision in the manner specified in the request form.

Under which circumstances will the request for access to information be refused?

Access to a record is refused on one or more grounds of refusal specified in PAIA, which fall into the following categories: –

- 6.21 Mandatory protection of privacy of a third party who is a natural person;
- 6.22 Mandatory protection of certain records of TDT;
- 6.23 Mandatory protection of commercial information of a third party;
- 6.24 Mandatory protection of certain confidential information and protection of certain other confidential information of a third party;
- 6.25 Mandatory protection of safety of individuals and protection of property;
- 6.26 Mandatory protection of police dockets in bail proceedings and protection of law enforcement and legal proceedings;
- 6.27 Mandatory protection of records privileged from production in legal proceedings;
- 6.28 Mandatory protection of research information of a third party and protection of research information of a public body;

What is deemed refusal of a request?

If the Information Officer does not give the decision on a request for access to the requester within the 30-day period or within any extended period, then the Information Officer/ Deputy Information Officer will be regarded as having refused the request.

7. FEES

- 7.1. There are two basic types of fees applicable in terms of PAIA – “request” and “access” fees.

Request Fee

- 7.2. The request fee is an administration fee that is payable on submission of the request for access to a record and must be paid before the request is considered (unless the request is to access the requestor's personal information in which event there is no

applicable fee). The request fee is not refundable if the request for access has been granted however it is refundable if the request for access has been denied by TDT.

- 7.3. The request fee is currently statutorily set at R50-00 (fifty rand) for a private body.
- 7.4. In line with section 23(1)(a) of POPIA, a Data Subject (i.e. personal requestor) has a right to request TDT to confirm, free of charge, whether or not TDT holds personal information about the Data Subject.

Access Fee

- 7.5. The access fee is payable prior to the Requester actually gaining of access to the records in the required form.
- 7.6. The access fee is intended to reimburse TDT for the costs involved in reproduction of documents, searching and preparing the record requested and for any time reasonable required (in excess of the prescribed hours) to search and prepare the record.
- 7.7. Should the preparation of the required record take more than 6 (six) hours, a deposit (which is 1/3 (one third)) of the access fee is payable before the request will be processed by TDT as a deposit.
- 7.8. TDT may withhold a record until the Requester has paid the applicable fees (if any).
- 7.9. In accordance with Section 23(3) of the POPIA, TDT may charge an access fee to the Data Subject to enable TDT to respond to the request. In such instances TDT must provide the Data Subject with a written estimate of the fee before providing the services.

Notices

- 7.10. The Information Officer shall provide the Requester with a Notice in terms of section 54(3) of PAIA on initial receipt and consideration of the request for access. This notice is **Annexure "C"**.
- 7.11. Once the request fee has been paid in full, the Information Officer will consider the request for access and will provide the Requester with its decision to the request. This notice is **Annexure "D"**.

8. AVAILABILITY OF THE MANUAL

The Manual is available for inspection, free of charge, at the offices of TDT, as set out in page 2 of this manual, as well as on TDT's website at www.timdutoit.co.za

ANNEXURE "A"**SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE COMPANY: SECTION 51(1)(E)****1. Companies Act Records**

- Broad-Based Black Economic Empowerment Verification Certificate
- Codes of Conduct
- Documents of Incorporation
- Legal Compliance Records
- Licenses of Copyrights
- Memorandum of Incorporation
- Minutes of Board of Directors Meetings
- Policies
- Records relating to the appointment of directors/ auditors/ secretary/ public office and other officers

2. Financial Records

- Accounting Records
- Annual Financial Statements
- Asset Register
- Auditors' Report
- Bank Statements
- Banking Records
- Detail of Auditors
- Electronic Banking Records
- Invoices
- Paid Cheques
- Rental Agreements
- Tax Returns

3. Income Tax Records

- Documents issued to employees for income tax purposes
- PAYE Records
- Records of payments made to SARS on behalf of employees
- Value Added Tax Clearance Certificate
- All other statutory compliances:
 - Value Added Tax
 - Skills Development Levies
 - Unemployment Insurance Fund

4. Personnel Documents and Records

- Attendance Registers
- Disciplinary Code
- Disciplinary Records
- Employment Contracts

- Employment Equity Plan
- Leave Records
- Records containing all employees' names and occupation
- Salary Records
- Sector Education and Training Authority Records
- Training Manuals
- Training Records

5. Client Records

**In terms of the Consumer Protection Act No. 68 of 2008*

- Receipts of payments from clients
- Correspondences
- Service Agreements
- Personal information such as name, contact details, company information, work experience, educational history, race, gender.
- Client documentations
- Advisory reports/memorandums
- Company and contact details of relevant individuals.
- Accounting Records
- Annual Financial Statements
- Asset Register
- Auditors' Report
- Bank Statements
- Banking Records
- Detail of Auditors
- Electronic Banking Records
- Invoices
- Paid Cheques
- Rental Agreements
- Tax Returns
- Documents issued to clients for income tax purposes
- Records of payments made to SARS on behalf of clients
- Value Added Tax
- Value Added Tax Clearance Certificate

6. Supplier Records

- The name of the supplier
- The address of the supplier
- A description of the goods
- The quantity or volume of the goods
- Proof of date of payment

7. Electronic Communication and Transactions Records

Record of the personal information and the specific purpose for which the personal information was collected

8. Insurance Records

- TDT General Insurance
- Professional Indemnity Insurance
- Directors and Officers Insurance
- Fidelity Fund

9. Immovable and Movable Property Records

- Agreements for the lease of movable property
- Agreements for the lease or sale of land and/or other immovable property
- Other agreements for the purchase, ordinary sale, conditional sale, or hire of assets

10. Miscellaneous Records

- Agency, management and distribution agreements
- Agreements for the trading activities of the business

**Refer to TDT Privacy Policy for general categories of personal information collected by TDT together with the purposes for such collection.*

ANNEXURE "B"**REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY**

(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act 2 of 2000))

[Regulation 10] A Particulars of private body
The Head: _____ _____ _____
B Particulars of person requesting access to the record
<p><i>a. The particulars of the person who requests access to the record must be given below.</i></p> <p><i>b. The address and/or fax number in the Republic to which the information is to be sent must be given.</i></p> <p>c. Proof of the capacity in which the request is made, if applicable, must be attached.</p>
Full names and surname: _____ _____
Identity number: _____
Postal address: _____ _____ _____
Fax number: _____
Telephone number: _____
E-mail address: _____
Capacity in which request is made, when made on behalf of another person: _____ _____
C Particulars of person on whose behalf request is made
<i>This section must be completed ONLY if a request for information is made on behalf of another person.</i>

Full names and surname: _____ _____ _____ _____	
Identity number: _____	
D Particulars of record	
<p>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.</p> <p>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.</p>	
1 Description of record or relevant part of the record: _____ _____ _____	
2 Reference number, if available: _____ _____	
3 Any further particulars of record: _____ _____	
E Fees	
<p>a. A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.</p> <p>b. You will be notified of the amount required to be paid as the request fee.</p> <p>c. 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.</p> <p>d. If you qualify for exemption of the payment of any fee, please state the reason for exemption</p>	
Reason for exemption from payment of fees: _____ _____ _____	
F Form of access to record	
If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.	
Disability: _____	Form in which record is required:

<hr/> <hr/>		
<p>Mark the appropriate box with an X.</p> <p>Notes:</p> <p>a) Compliance with your request in the specified form may depend on the form in which the record is available.</p> <p>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.</p> <p>c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.</p>		
1. If the record is in written or printed form:		
copy of record* <input type="checkbox"/>	inspection of record <input type="checkbox"/>	
2. If record consists of visual images: (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):		
view the images <input type="checkbox"/>	Copy the images* <input type="checkbox"/>	transcription of the images* <input type="checkbox"/>
3. If record consists of recorded words or information which can be reproduced in sound:		
listen to the soundtrack (audio) <input type="checkbox"/>	transcription of soundtrack* (written or printed document) <input type="checkbox"/>	
4. If record is held on computer or in an electronic or machine-readable form:		
printed copy of record* <input type="checkbox"/>	printed copy of information derived from the record* <input type="checkbox"/>	copy in computer readable form* (i.e. electronic copy) <input type="checkbox"/>
*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	YES <input type="checkbox"/>	NO <input type="checkbox"/>
G Particulars of right to be exercised or protected		
<p>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.</p>		
<p>1 Indicate which right is to be exercised or protected:</p> <hr/> <hr/> <hr/> <hr/>		
<p>2 Explain why the record requested is required for the exercise or protection of the aforementioned right:</p> <hr/> <hr/> <hr/> <hr/>		

H Notice of decision regarding request for access
<i>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.</i>
How would you prefer to be informed of the decision regarding your request for access to the record? _____ _____ _____
Signed at _____ this _____ day of _____ 20 _____
_____ Signature of requester/person on whose behalf request is made

ANNEXURE "C"**TDT Notice in terms of Section 54(3) of PAIA**

1. Please be advised the Requester is required to pay the prescribed request fee (if any), before further processing the prescribed access form is done.
2. Please be advised that in the event that:
 - (a) the search for the requested record for which a request for access by a Requester, has been made; and
 - (b) the preparation of the record for disclosure (including any arrangements contemplated in section 29 (2) (a) and (b) (i) and (ii) (aa)), would, in the opinion of TDT, require more than the hours prescribed, the Requester is herewith requested to pay as a deposit, one third of the access fee.
3. The Requester is herewith advised that the aforesaid instance is applicable and therefore a required deposit is payable. Such amounts totals _____ (which is one third of the access fee, which amount is _____).
4. In the event that the Requester finds the aforesaid unacceptable, the Requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the request fee in terms of subsection (1), or the tender or payment of a deposit in terms of subsection (2), as the case may be.
5. The procedure for lodging the complaint stated in subsection 4 is available in the PAIA and its Regulations.

DATE AT _____ ON THE _____ DAY OF _____ 20____.

From the desk of the Information Officer

ANNEXURE "D"**TDT Decision Notice**

Based on the prescribed access form, the Requester has requested access to documents stated therein and TDT hereby:

Declines or Grants

1. In the event that TDT grants access to the record – the access fee payable is _____ (in words).

2. The amount is calculated as following:

3. All exceptions, restrictions and parameters regarding access:

4. In the event that the request is granted but with issue, the Requester may lodge a complaint with the Information Regulator or an application with a court against the access fee to be paid or the form of access granted.

5. In the event that TDT declines access to the record – the reasons for refusal are:

6. In the event that the request is declined, and should the Requester not be satisfied with the decision of the Information Officer/ Deputy Information Officer, the Requester may apply to court for relief. The said application must be made within 180 days after the decision has been made by the Information Officer/ Deputy Information Officer. On hearing such an application, the court may grant a just and equitable order including but not limited to:

- i. Confirming, amending or setting aside the decision that is the subject of the application;
- ii. Requiring the Information Officer to take some action or to refrain from taking such action as the court considers necessary within the period mentioned in the order;
- iii. Granting an interdict, interim or specific relief, a declaratory order or compensation; or
- iv. Costs.

Such an application may be made at the Magistrates Court.

From the desk of the Information Officer