



MART ATTORNEYS INC

PAIA MANUAL

PROMOTION OF ACCESS TO INFORMATION ACT MANUAL

1. INTRODUCTION AND OVERVIEW

This manual is compiled in terms of the Promotion of Access to Information Act, No 2 of 2000 ("the Act") and the Protection of Personal Information Act No 4 of 2013 ("POPIA").

The Act gives effect to the constitutional right of access to information contained in section 32 of the Constitution of the Republic of South Africa.

In terms of the Act, private bodies are required to compile a manual as a guide to requesters of information. This manual further serves to indicate the kind of records held by the Mart Attorneys Incorporated ("MART") and the availability of such records from the MART, as a private body.

ABOUT MART

MART Attorneys Incorporated (registration number) ("MART") provides legal services to the general public in South Africa.

As an integral part of providing such services, MART interacts with, and receives records and documents from, and discloses records and documents to various persons and entities who are involved in the industry,

Further general information on MART, its operations and activities can be obtained from its website at www.martinc.co.za.

PAIA

- The Promotion of Access to Information Act, No. 2 of 2000 ("the PAIA") seeks to give effect to the constitutional right of access to information as contained in section 32 of the Constitution of the Republic of South Africa, 1996 ("the Constitution").
- The PAIA seeks to advance the constitutional values of transparency and accountability by (among other things) promoting a society in which 3 South African people have effective access to information to enable them to exercise and protect their rights.

- Thus, the PAIA establishes certain statutory rights of persons and entities who seek access to records of (among other things) a private body if:
 - that record is required for the exercise or protection of any rights;
 - that Requester complies with all the procedural requirements; and
 - access is not refused in terms of any ground referred to in the PAIA.
- Section 9 of the PAIA recognizes, however, that the right to access information cannot be unlimited, and should be subject to justifiable limitations, including:
 - limitations aimed at the reasonable protection of privacy;
 - commercial confidentiality; and
 - effective, efficient and good governance;
 - and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

THE PROTECTION OF PERSONAL INFORMATION ACT, NO. 4 OF 2013 ("THE POPI ACT")

- The POPI Act seeks to:
 - give effect to the constitutional right to privacy as contained in section 14 of the Constitution;
 - safeguard personal information by regulating the manner in which it may be processed by public and private bodies.

PAIA MANUAL

- Section 51 of the PAIA requires a private body to publish a manual to assist Requesters who wish to request access to Personal Information of the types and categories that are referred to in the PAIA (and in this document).
- This document serves as MART's PAIA Manual as contemplated and required in the PAIA and section 4 of the Regulations to the POPI Act ("the PAIA Manual"), and facilitates access to the records held by MART, and caters for the processing of personal information held by MART from time to time.
- This PAIA Manual is available for inspection on MART's website (www.martinc.co.za) and during normal business hours and on reasonable prior notice at MART's offices, situated at:

141 Ontdekkers Road
Horizon Park
Roodepoort

A GUIDE ON HOW TO USE PAIA - S14(1)(B) OF THE ACT

The Information Regulator is responsible for and has developed a guide in each of the country's eleven languages, with information on how to use PAIA. This guide is available on the Information Regulator's website.

Any information or queries related to the guide should be directed to:

The Information Regulator (South Africa)

P O Box 31533

Braamfontein

Johannesburg

2017

Website: <https://inforegulator.org.za/>

Email: enquiries@inforegulator.org.za

Tel: 010 023 5200

DEFINITIONS ANY REFERENCE IN THIS PAIA MANUAL TO:

- ❖ "Data Subject" refers to the (natural or juristic) person to whom personal information relates;
- ❖ "Information Acts" refers to both the PAIA and the POPI Act;
- ❖ "Personal Information" refers to that term as defined in section 1 of the POPI Act;
- ❖ "Personnel" refers to MART's employees, partners, directors, agents, consultants, contractors, sub-contractors, attorneys, auditors and other professional advisors from time to time;
- ❖ "processing" is to that term as defined in section 1 of the POPI Act;
- ❖ "Requester" refers to any (natural or juristic) person who makes a request for access to a record of MART;
- ❖ the word "including" or "include" refers to be construed as meaning "including, but not limited to";
- ❖ monetary figures are in South African (Rand) currency;
- ❖ This PAIA Manual is based on the laws of South Africa as at the date on which this PAIA Manual is adopted.
- ❖ This PAIA Manual may be amended, supplemented or replaced at any time and as and when laws to which this PAIA Manual relates change or are repealed, as the case may be.

2. INFORMATION OFFICER

MART Information Officer	Tshepo Rametse
Postal Address of MART	P.O. Box 7182 Westgate, 1734.
Street Address of MART	141 Ontdekkers road, Horizon Park, Roodepoort
Tel. No:	011 297 7754
E- Mail address of MART Designated Head	tshepo@mrlf.co.za

3. RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION

Records available in terms of other legislation are as follows:

- ❖ Basic Conditions of Employment Act, No 57 of 1997
- ❖ Broad Based Black Economic Empowerment Act, No 53 of 2003
- ❖ Companies Act, No 71 of 2008
- ❖ Compensation for Occupational Injuries and Diseases Act, No 130 of 1993
- ❖ Constitution of the Republic of South Africa Act, No 108 of 1996
- ❖ Consumer Protection Act, No 68 of 2008
- ❖ Copyright Act, No 98 of 1978
- ❖ Electronic Communications and Transactions Act, No 25 of 2002
- ❖ Employment Equity Act, No 55 of 1998
- ❖ Financial Intelligence Centre Act, No 38 of 2001
- ❖ Financial advisory and Intermediary Services Act, No 37 of 2002
- ❖ Income Tax Act, No 58 of 1962
- ❖ Labour Relations Act, No 66 of 1995
- ❖ Law of Evidence,
- ❖ Legal Practice Act,
- ❖ Long-term Insurance Act, No 52 of 1998
- ❖ National Credit Act, No 34 of 2005
- ❖ Promotion of Access to Information Act, No 2 of 2000
- ❖ Promotion of Equality & Prevention of Unfair Discrimination Amendment Act, No 52 of 2002
- ❖ Protected Disclosures Act, No 26 of 2000

- ❖ Protection of Personal Information Act, No 4 of 2013
- ❖ Short-term Insurance Act, No 53 of 1998
- ❖ Tax Administration Act, 28 of 2011
- ❖ Unemployment Insurance Act, No 30 of 1966
- ❖ Value Added Tax Act, No 89 of 1991
- ❖ Various City By-Laws

4. RECORDS AUTOMATICALLY AVAILABLE

No notice has been submitted by the practice to the Minister of Justice and Constitutional Development regarding the categories of records, which are available without a person having to request access in terms of Section 52(2) of PAIA. However, the information on the website of the business is automatically available without having to request access in terms of PAIA.

5. SUBJECTS AND CATEGORIES OF RECORDS HELD BY MART

General information about MART can be accessed via the internet on www.martinc.co.za, which is available to all persons who have access to the internet.

The subjects on which the private body holds records and the categories on each subject in terms of Section 51(1)(e) are as listed below. Please note that a requester is not automatically allowed access to these records and that access to them may be refused in accordance with Sections 62 to 69 of the Act:

6.1 Compliance

- BBBEE compliance
- Internal auditing and risk
- Legislation compliance
- Regulatory reports
- Policies and procedures
- Membership with industry bodies

6.2 Corporate Governance

- Annual reports
- Board and sub-committee administration
- Company directorships

- Company registrations
- Strategic management

6.3 Finance

- Audit management
- Budgets
- Creditors control
- Debtors control
- Funders and donors
- Insurance
- Management accounts
- Salary administration
- Tax management
- Treasury management
- Utilities management

6.4 Human Resources

- Disciplinary actions
- Job profiles
- Performance management
- Staff benefits and incentives
- Staff list
- Training and skills development

6.5 Information Technology

- Information systems
- Network security
- Software licences
- Technology assets

6.6 New Developments

- Agreements
- Council documentation
- Development specifications
- Plans
- Project management reports

6.7 Procurement

- Agreements
- Compliance documentation of service providers
- Procurement committee administration
- Procurement proposals and tenders
- Service provider records

6.8 Property Management

- Building management
- Preventative maintenance
- Reactive maintenance

6.10 Revenue Management

- Leasing administration and agreements
- Tenant personal information
- Marketing and promotions
- Market research and surveys

6. PURPOSE OF COLLECTING AND PROCESSING OF PERSONAL INFORMATION

The purpose for which MART collect and processes personal information depends on the nature of the information. In general, MART collects personal information for purposes of conducting the business activities that include:

- to provide services to clients;
- to comply with legal or regulatory obligations;
- if a data subject has provided their consent; or
- if the processing is allowed by law.

MART Attorneys processes personal information for various purposes including for –

- Fulfilling its contractual obligations to its clients and client contacts;
- Attending to the legitimate interests of data subjects;
- In connection with legal proceedings.
- Facilitating transactions with data subjects;
- Collecting data for statistical purposes to improve its services;
- Engaging in various forms of direct marketing;

- Complying with the provisions of statute and regulations;
- Identifying prospects for enhanced service delivery and business sustainability;
- Tracking data subject activity on the website and its links as well as their transactions with us;
- Confirming and verifying data subject's identity or verifying that they are authorised users for security purposes;
- Conduct market or customer satisfaction research;
- Audit and record keeping purposes;

7. DATA SUBJECTS CATEGORIES

MART processes personal information relating to the following categories of Data Subjects:

- ❖ clients;
- ❖ employers of clients;
- ❖ Regulators
- ❖ MART Funders;
- ❖ Personnel;
- ❖ consultants;
- ❖ contractors;
- ❖ service providers;
- ❖ suppliers; and
- ❖ other third parties with whom MART conducts business.

8. PLANNED RECIPIENTS OF PERSONAL INFORMATION

MART processes personal information relating to the following categories of Data Subjects:

- ❖ clients;
- ❖ employers of clients;
- ❖ Employee pension fund
- ❖ regulatory bodies
- ❖ MART Funders;
- ❖ Personnel;
- ❖ consultants;
- ❖ contractors;
- ❖ funders and donors
- ❖ service providers;

- ❖ law enforcement
- ❖ Financial institutions
- ❖ suppliers; and
- ❖ other third parties with whom MART conducts business

9. PLANNED TRANS-BORDER FLOWS OF PERSONAL INFORMATION

- ❖ Flows through the use of social media

10. SECURITY MEASURES TO PROTECT PERSONAL INFORMATION

MART strives to take appropriate, reasonable technical, technological and organisational measures to secure and ensure the integrity, confidentiality and availability of personal information in its possession or under their control. These measures include:

10.1 Physical security measures

- ❖ Access controls
- ❖ Home and mobile measures
- ❖ Internal security measures
- ❖ Cyber security measures
- ❖ Anti-spam measures
- ❖ Anti-virus measures
- ❖ Firewalls
- ❖ Password control
- ❖ Training in information security

10.2 Training of key staff

- ❖ Policies in information security

10.3 Comprehensive coverage of all IT-related issues

- ❖ Audits of information security

11. DETAIL ON HOW TO MAKE A REQUEST FOR ACCESS

The requester must complete Form A and submit this form together with a request fee, to the person delegated to deal with requests (for “the designated head”). The form must be submitted using any of the methods noted below:

MART Information Officer	Tshepo Rametse
Postal Address of MART	P.O. Box 7182 Westgate, 1734.
Street Address of MART	141 Ontdekkers road, Horizon Park, Roodepoort
Tel. No:	011 297 7754
E- Mail address of MART Designated Head	tshepo@mrlf.co.za

- ❖ The requester must use the prescribed form, as attached herein, to make the request for access to a record. This must be made to the designated head. This request must be made to the address, fax number or electronic mail address of the body concerned (s 53(1)).
- ❖ The requester must provide sufficient detail on the request form to enable the designated head to identify the record and the requester.
- ❖ The requester should indicate which form of access is required.
- ❖ The requester should indicate if any other manner is to be used to inform the requester and state the necessary particulars to be so informed [s 53(2)(a) and (b) and (c)].
- ❖ The requester must identify the right that is sought to be exercised or to be protected and provide an explanation of why the requested record is required for the exercise or protection of that right [s 53(2)(d)].
- ❖ If a request is made on behalf of another person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the designated head of the private body [s 53(2)(f)].
- ❖ A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee.
- ❖ Every other requester, who is not a personal requester, must pay the required request fee.
- ❖ The designated head of the private body must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request [s 54(1)]. The fee that the requester must pay to a private body is currently R50,00. The requester may lodge an application to the court against the tender or payment of the request fees 54(3)(b)].
- ❖ After the designated head of the private body has made a decision on the request, the requester must be notified in the required form.

- ❖ If the request is granted then a further access fee must be paid for the search, reproduction, preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure [s 54(6)].

Notification

- ❖ The Information Officer will, within 30 (thirty) days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect. If the Requester requires the reasons for MART's decision in any other manner, the Requester will be obliged to state which manner and the particulars required.
- ❖ This 30 (thirty) day period may be extended for a further period of not more than 30 (thirty) days, if the request is for a large volume of information, or the request requires a search for information held at other offices of MART and the information cannot reasonably be obtained within the original 30 (thirty) day period. The Requester will be notified in writing should an extension be sought.

Grounds for refusing a request

MART has the right to reject any request for information submitted in terms of Sections 62 to 70 of Chapter 4 of the PAIA Act.

Loss of records

If MART cannot find the records that a Requester is looking for despite reasonable and diligent search and MART believes either that the records are lost or that the records are in its possession but unattainable, the Requester will receive a written notice in this regard from the Information Officer setting out the measures taken to locate the records and accordingly the inability to locate the records. If the record should later be found, the Requester shall be given access to the record in the manner stipulated by the Requester in the prescribed form, unless the Information Officer refuses access to such record.

Remedies available when MART refuses a request

Internal remedies:

- ❖ MART does not have internal appeal procedures. As such, the decision made by MART's Information Officer is final.

- ❖ Requesters will have to exercise such external remedies at their disposal if the request for information is refused, and a Requester is not satisfied with the answer supplied by the Information Officer.

External remedies

- ❖ A Requester that is dissatisfied with the Information Officer's refusal to disclose information may, within 30 (thirty) days of notification of the decision, apply to a Court for relief.
- ❖ A third party who is dissatisfied with the Information Officer's decision to grant a request for information may, within 30 (thirty) days of notification of the decision, apply to a Court for relief.
- ❖ For purposes of the PAIA, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and a Magistrate's Court designated by the Minister of Justice and Constitutional Development and which is presided over by a designated Magistrate

12. PROCESSING OF PERSONAL INFORMATION UNDER THE POPI ACT

Protection of Personal Information that is processed by MART

- 12.1. Chapter 3 of the POPI ACT provides for the minimum Conditions for Lawful Processing of Personal Information by a Responsible Party. These conditions may not be derogated from unless specific exclusions apply as outlined in the POPI Act.
- 12.2. MART needs Personal Information relating to both individual and juristic persons in order to carry out its business and organisational functions, as more fully described in clause 6 above. The manner in which this information is Processed and the purposes for which it is Processed is determined by MART. MART is accordingly a Responsible Party for the purposes of the POPI Act and will ensure that the Personal Information of a Data Subject:
 - ❖ is processed lawfully, fairly and transparently. This includes the provision of appropriate information to Data Subjects when their data is collected by MART, in the form of privacy or data collection notices. MART must also have a legal basis (for example, consent) to process Personal Information;
 - ❖ is processed only for the purposes for which it was collected;
 - ❖ will not be processed for a secondary purpose unless that processing is compatible with the original purpose;
 - ❖ is adequate, relevant and not excessive for the purposes for which it was collected;
 - ❖ is accurate and kept up to date;
 - ❖ will not be kept for longer than necessary;

- ❖ is processed in accordance with integrity and confidentiality principles; this includes physical and organisational measures to ensure that Personal Information, in both physical and electronic form, is subject to an appropriate level of security when stored, used and communicated by MART, in order to protect against access and acquisition by unauthorised persons and accidental loss, destruction or damage; and
- ❖ is processed in accordance with the rights of Data Subjects, where applicable.

12.3 A Data Subject has the right to:

- ❖ be notified that their Personal Information is being collected by MART.
- ❖ The Data Subject also has the right to be notified in the event of a data breach;
- ❖ know whether MART holds Personal Information about them, and to access that information. Any request for information must be handled in accordance with the provisions of this PAIA Manual;
- ❖ request the correction or deletion of inaccurate, irrelevant, excessive, out of date, incomplete, misleading or unlawfully obtained personal information;
- ❖ object to MART's use of their Personal Information and request the deletion of such Personal Information (deletion is, however, subject to MART's record keeping requirements, contractual and legal restrictions and/or obligations);
- ❖ object to the processing of Personal Information for purposes of direct marketing by means of unsolicited electronic communications; and
- ❖ complain to the Information Regulator regarding an alleged infringement of any of the rights protected under the POPI ACT and to institute civil proceedings regarding the alleged non-compliance with the protection of his/her/its personal information.

12.4 Categories of Information

MART processes Personal Information relating to the following categories of Personal Information contained in Section 1 of the POPI Act:

- i. In respect of natural persons, the categories of personal information which MART processes may include:
 - ❖ name;
 - ❖ identifying number (identity or passport number)
 - ❖ date of birth;
 - ❖ citizenship;
 - ❖ age;

- ❖ gender;
- ❖ race;
- ❖ marital status;
- ❖ language;
- ❖ telephone number(s);
- ❖ email address(es);
- ❖ physical and postal addresses;
- ❖ income tax number;
- ❖ banking information;
- ❖ medical information and records;
- ❖ disability information;
- ❖ employment history;
- ❖ background checks;
- ❖ fingerprints;
- ❖ CVs;
- ❖ education history;
- ❖ remuneration and benefit information; and
- ❖ details related to employee performance

ii. In respect of juristic persons, the categories of personal information which MART processes may include:

- ❖ name;
- ❖ registration number;
- ❖ tax information;
- ❖ contact details;
- ❖ physical and postal addresses;
- ❖ FICA documentation;
- ❖ B-BBEE certificates;
- ❖ UIF records;

- iii. MART Claim records;
- iv. payment details (including bank accounts);
- v. invoices; and
- vi. contractual agreements.

15. AVAILABILITY OF THE MANUAL

This manual is available for inspection at the office of MART and our website free of charge

Information Officer

Tshepo Rametse

16. FEES IN RESPECT OF PRIVATE BODIES

The following is a breakdown of the fees structure for the purposes of determining the manner in which fees relating to a request for access to a record of a private body are to be calculated:

Part III of Regulation 187 published in the Government Gazette on the 15 February 2002:

- I. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1,10 for every photocopy of an A4-size page or part thereof.
- II. The fees for reproduction referred to in regulation 11(1) are as follows:
 - a) For every photocopy of an A4-size page or part thereof R1,10
 - b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form R4, 75
 - c) For a copy in a computer-readable form on - (i) stiffy disc R 7, 50; (ii) compact disc R 70,00
 - d) (i) For a transcription of visual images, for an A4-size page or part thereof R 40,00, (ii) For a copy of visual images R 60,00
 - e) (i) For a transcription of an audio record, for an A4-size page or part thereof R 20,00; (ii) For a copy of an audio record R 30,00

The request fee payable by a requester, other than a personal requester, referred to in Regulation 11(2) is R50,00.

4. The access fees payable by a requester referred to in Regulation 11(3) are as follows:
 - a) For every photocopy of an A4-size page or part thereof R 1,10;
 - b) For every printed copy of an A4-size page or part; thereof held on a computer or in electronic or machine-readable form R 4,75;
 - c) For a copy in a computer-readable form on - (i) stiffy disc R 7,50; (ii) compact disc R70,00

- d) (i) For a transcription of visual images, for an A4-size page or part thereof R 40,00; (ii) For a copy of visual images R 60,00
- e) (i) For a transcription of an audio record, for an A4-size page or part thereof R 20,00; (ii) For a copy of an audio record R 30,00
- f) To search for and prepare the record for disclosure, R30,00; for each hour or part of an hour reasonably required for such search and preparation.

2. For purposes of section 54(2) of the Act, the following applies:

- a) Six hours as the hours to be exceeded before a deposit is payable; and
- b) one third of the access fee is payable as a deposit by the requester.

3. The actual postage is payable when a copy of a record must be posted to a requester.

FORM A: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

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

A. Particulars of private body

The Head (name of body):

B. Particulars of person requesting access to the record

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

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

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 record or relevant part of the record:

2. Reference number, if available:

3. Any further particulars of record:

E. Fees

- 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.
- b) You will be notified of the amount required to be paid as the request fee.
- 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.
- d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

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:

NOTES:

- a) Compliance with your request 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 access to the record, if any, will be determined partly by the form in which access is requested.

Mark the appropriate choice with an X.

1. If the record is in written or printed form:

- Copy of record
- Inspection of record

2. If record consists of visual images

- (This includes photographs, slides, video recordings, computer-generated images, sketches, etc.):
- View the images
- Copy of the images
- Transcription of the images

3. If record consists of recorded words or information which can be reproduced in sound:

- Listen to the soundtrack (audio file)
- Transcription of soundtrack (written or printed document)

4. If record is held on computer or in an electronic or machine-readable form:

- Printed copy of record
- Printed copy of information
- Derived from the record
- Copy in computer readable form (stiffy or compact disc)

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
- NO

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 _____ this _____ day of _____

SIGNATURE OF REQUESTER / PERSON ON WHOSE
BEHALF REQUEST IS MADE