



**MANUAL PREPARED IN TERMS OF SECTION 51 OF THE PROMOTION OF  
ACCESS TO INFORMATION ACT NO. 2 OF 2000**

**(“PAIA Manual”)**

**for**

**MXUNYELWA ATTORNEYS INCORPORATED**

**(A Private Body)**

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## 1. DEFINITIONS

- 1.1 In this Manual, the following words and expressions will bear the following meanings –
- 1.1.1 “**Client**” means a natural or juristic person who receives services from MA Inc.;
  - 1.1.2 “**Correspondence**” means any written and/or electronic communication exchange between parties;
  - 1.1.3 “**Data Subject**” means an individual or legal entity to whom Personal Information relates and who can be identified or is identifiable from the Personal Information;
  - 1.1.4 “**Employee**” means any person employed by, or who provides services to or on behalf of MA Inc. and receives or is entitled to receive remuneration from MA Inc. in respect of those services;
  - 1.1.5 “**Information Officer**” means MA Inc.’s designated information officer described in paragraph 4.3 of this Manual;
  - 1.1.6 “**Manual**” means this manual together with any annexes thereto, as amended from time to time;
  - 1.1.7 “**PAIA**” means the Promotion of Access to Information Act No. 2 of 2000 together with any regulations published thereunder, as may be amended from time to time;
  - 1.1.8 “**POPIA**” means the Protection of Personal Information Act No. 4 of 2013, together with any regulations published thereunder, as may be amended from time to time;
  - 1.1.9 “**Personal Information**” has the meaning ascribed to it under section 1 of POPIA;
  - 1.1.10 “**Process**” and “**Processing**” means any activity or set of activities which involve Personal Information including collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or making available, alignment or combination, restriction, erasure or destruction;
  - 1.1.11 “**Requester**” means any person or entity (including a Data Subject) requesting access to a record that is in the possession of MA Inc.; and
  - 1.1.12 “**Third Party**” means any independent contractor, agent, consultant, sub-contractor or other representative of MA Inc.

## 2. INTRODUCTION

- 2.1. This Manual has been prepared and published in accordance with Section 51 of PAIA, read with sections 23 to 25 of POPIA.

- 2.2. 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 PAIA.
- 2.3 In addition, in compliance with POPIA, a Responsible Party who processes Personal Information must notify the Data Subject of the manner in which the Data Subject can access their Personal Information held by the Responsible Party.

### 3. PURPOSE OF THE MANUAL

The purpose of this Manual is to facilitate requests from potential Requesters for access to information, including records containing Personal Information from MA Inc., as provided for in PAIA.

### 4. STRUCTURE AND FUNCTIONS OF MA INC.

- 4.1 MA Inc is incorporated and registered in the Republic of South Africa under registration number 2018/000950/21, with its principal place of business in Fourways, Johannesburg.
- 4.2 Ma Inc. is a boutique legal practice that offers various legal services, with practice areas in Corporate and Commercial law, Public law, Consumer law and Dispute Resolution, and Succession law (Wills and Trusts). Our clients include individuals and all types of companies and other business structures, including public sector companies.
- 4.3 Contact Details of the Private Body and the Information Officer:

**Name of Private Body:** Mxunyelwa Attorneys Incorporated

**Information Officer:** Ms. Nozuko Mxunyelwa (Director)

**Email:** [nozuko@mxunyelwainc.co.za](mailto:nozuko@mxunyelwainc.co.za)

**Physical Address:** Spaces Design Quarter, Leslie Avenue, Fourways, 2191

**Postal Address:** PO Box 10098, Fourways East, 2055

**Phone number:** (011) 549 5687

**Website:** [www.mxunyelwainc.co.za](http://www.mxunyelwainc.co.za)

### 5. DESCRIPTION OF GUIDE ON HOW TO USE PAIA

- 5.1 A Guide has been compiled by the South African Human Rights Commission (“SAHRC”) in terms of Section 10 of PAIA (“Guide”). The Guide contains information required by a person wishing to exercise any right contemplated by PAIA. The Guide is available in all the official languages.
- 5.2 The Guide is available for inspection at the office of the Information Regulator at the address below, and on the SAHRC’s website, at [www.sahrc.org.za](http://www.sahrc.org.za)

**Contact Body:** The South African Human Rights Commission  
**Physical Address:** PAIA Unit, JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001  
**Postal Address:** P.O Box 31533, Braamfontein, Johannesburg, 2017  
**Telephone Number:** +27 11 877 3600  
**E-mail:** [infoereg@justice.gov.za](mailto:infoereg@justice.gov.za)  
**Website:** [www.sahrc.org.za](http://www.sahrc.org.za)

## **6. INFORMATION HELD BY MA INC. IN TERMS OF PAIA**

6.1 This section sets out the description of records as well as categories of records held by MA Inc. Requests for access to the information listed below may however be refused on the grounds set out in PAIA, as contemplated in paragraph 10 below.

### *6.1.1 Financial Records*

- 6.1.1.1 Accounting Records;
- 6.1.1.2 Annual Financial Statements;
- 6.1.1.3 Audit Reports;
- 6.1.1.4 Bank Accounts Records and Statements;
- 6.1.1.5 Debtors' and creditors' invoices;
- 6.1.1.6 Supplier Agreements;
- 6.1.1.7 Policies and Procedures;
- 6.1.1.8 Tax Returns; and
- 6.1.1.9 Tax Records.

### *6.1.2 Company Records*

- 6.1.2.1 Incorporation documents;
- 6.1.2.2 Share registers and other statutory registers; and
- 6.1.2.3 Minutes of meetings.

### *6.1.3 Human Resources Records*

- 6.1.3.1 Personnel Records;
- 6.1.3.2 Employment Letters and Contracts of Employment;
- 6.1.3.3 Salary Records;
- 6.1.3.4 Internal Policies and Procedures; and
- 6.1.3.5 Grievance and Disciplinary Records.

### *6.1.4 Client Records*

- 6.1.4.1 Files relating to client matters;

- 6.1.4.2 Client verification documents in accordance with the Financial Intelligence Centre Act No. 38 of 2001 ("FICA");
- 6.1.4.3 Correspondences with clients;
- 6.1.4.4 Correspondences with Third Parties;
- 6.1.4.5 Records relating to legal proceedings involving clients; and
- 6.1.4.6 Other information relating to, or held on behalf of clients.

#### 6.1.5 *Marketing*

- 6.1.5.1 Branding and Marketing Material; and
- 6.1.5.2 Website: Our website contains information relating to the business, including but not limited to the legal services offered, personnel resumes and contact details.

#### 6.1.6 *Other Records*

- 6.1.6.1 Legal Agreements with Suppliers;
- 6.1.6.2 Legal Agreements with Clients;
- 6.1.6.3 Internal Correspondences;
- 6.1.6.4 External Correspondences with Suppliers and Clients; and
- 6.1.6.5 Correspondences with the Legal Practice Council

## **7. INFORMATION KEPT BY MA INC. IN ACCORDANCE WITH OTHER LEGISLATION**

- 7.1 Records are kept in accordance with legislation applicable to MA Inc., including but not limited to the following legislation -

- 7.1.1 Administration of Estates Act No. 66 of 1965;
- 7.1.2 Arbitration Act No. 42 of 1965;
- 7.1.3 Basic Conditions of Employment Act, No. 75 of 1997;
- 7.1.4 Broad-based Black Economic Empowerment Act No. 53 of 2003
- 7.1.5 Companies Act No. 71 of 2008;
- 7.1.6 Competition Act No. 89 of 1998;
- 7.1.7 Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- 7.1.8 Consumer Protection Act No. 68 of 2008;
- 7.1.9 Copyright Act No. 98 of 1978;
- 7.1.10 Electronic Communications Act No. 36 of 2005;
- 7.1.11 Electronic Communications and Transactions Act No. 25 of 2002;
- 7.1.12 Employment Equity Act No. 55 of 1998;
- 7.1.13 Financial Intelligence Centre Act No. 38 of 2001;
- 7.1.14 Income Tax Act No. 58 of 1962;
- 7.1.15 Labour Relations Act No. 66 of 1995;

- 7.1.16 Occupational Health and Safety Act No. 85 of 1993;
- 7.1.17 Prevention and Combating of Corrupt Activities Act No. 12 of 2004;
- 7.1.18 Promotion of Access to Information Act No. 2 of 2000;
- 7.1.19 Protected Disclosures Act No. 26 of 2000;
- 7.1.20 Protection of Personal Information Act No. 4 of 2013;
- 7.1.21 Public Finance Management Act No. 1 of 1999;
- 7.1.22 Skills Development Act No. 97 of 1998;
- 7.1.23 Tax Administration Act No. 28 of 2011;
- 7.1.24 Unemployment Insurance Act No. 63 of 2001; and
- 7.1.25 Value Added Tax No. 89 of 1991.

## **8. MA INC.'S PROCESSING OF PERSONAL INFORMATION IN TERMS OF POPIA**

### **8.1 Purpose of MA Inc.'s Processing of Personal Information**

- 8.1.1 MA Inc. will only Process a Data Subject's Personal Information for a specific, lawful and clear purpose and will, to the extent possible, ensure that it makes the Data Subject aware of such purpose(s).
- 8.1.2 MA Inc. will ensure that there is a legal basis for the Processing of any Personal Information and further that the Processing will only relate to the purpose for which the Data Subject has been made aware of, and will not Process the Personal Information for any other purpose(s).
- 8.1.3 MA Inc. will retain Personal Information only for as long as it is necessary to accomplish the legitimate purpose for which it was collected, or for as long as may be permitted or required by applicable law.
- 8.1.4 MA Inc. uses Personal Information for one or more of the following purposes –
  - 8.1.4.1 providing its legal services to the Data Subject from time to time;
  - 8.1.4.2 conducting customer verification processes in accordance with the requirements of FICA;
  - 8.1.4.3 conducting due diligence processes on clients;
  - 8.1.4.4 conducting risk assessment audits and investigations where necessary;
  - 8.1.4.5 interacting with Data Subjects on our website and generally monitoring use of our website;
  - 8.1.4.6 for employment related purposes including payroll and background verification checks;
  - 8.1.4.7 payment processing of suppliers' invoices; and
  - 8.1.4.8 for any other purpose authorised by applicable law.

## **8.2 Data Subjects Categories and Their Personal Information**

- 8.2.1 *Clients*: Records of clients' life cycle;
- 8.2.2 *Employees*: Record of employees' life cycle;
- 8.2.3 *Suppliers*: Record of suppliers' life cycle;
- 8.2.4 *Third Party*: Information of Third Parties providing services to MA Inc.; and
- 8.2.5 *General Public*: Information obtained through tracking general enquiries and web site visits.

## **8.3 Recipients to Whom Personal Information May be Supplied**

Depending on the nature of the Personal Information, MA Inc. may supply information or records to the following categories of recipients:

- 8.3.1. Statutory authorities;
- 8.3.2. Law enforcement;
- 8.3.3. Tax authorities;
- 8.3.3. Financial institutions;
- 8.3.4. Third Parties, e.g. professional advisors, data hosting and storage service providers; and
- 8.3.4. Industry regulators such as the Legal Practice Council.

## **8.4 Trans-border Flows of Personal Information**

In carrying out any cross-border transfers, MA Inc. shall adhere to the provisions of POPIA.

## **8.5 Security Measures to Protect Personal Information**

In Processing any Personal Information, MA Inc. shall apply the following technical and security requirements –

- 8.5.1 Physical access and security measures;
- 8.5.2 Cyber security measures including malware protection, password policies and back-up processes;
- 8.5.3 Policies on information security; and
- 8.5.4 Staff training on information security.

## **9. PROCESS OF MAKING A REQUEST FOR ACCESS**

- 9.1 PAIA grants a Requester access to records of a private body if the record is required for the exercise or protection of any rights. If the Requester is a public body, the public body requesting the record must be acting in the public interest.



9.2 A Requester must complete Form A, attached hereto as “Annexure A”, and submit this form together with a request fee (referred to in 9.5 below), to the Information Officer at the address or electronic mail address provided in 4.3 above.

9.3 A Requester must be given access to a record if the Requester complies with the following:

9.3.1. The Requester complies with all the procedural requirements of PAIA relating to the request for access to that record; and

9.3.2. Access to that record is not refused on any ground for refusal as stated in PAIA.

#### **9.4 Form of Request**

9.4.1 The Requester must use the prescribed Form A to make the request for access to records held by MA Inc.

9.4.2 The Requester must provide sufficient detail on the request form to enable MA Inc. to identify the record and the Requester. The Requester should further indicate which form of access is required and furthermore, identify the right that is sought to be exercised or protected as well as an explanation of why the requested record is required for the exercise or protection of that right.

9.4.3 The Requester must use the PAIA guidelines provided by the Information Regulator and available on the Information Regulator’s website. The Requester may also request a copy of the guide from us by contacting our Information Officer. Queries to the Information Regulator should be addressed to the regulator on the contact details provided in 5.2 above.

9.4.4 Request Forms and queries should be addressed to the Information Officer on the contact details contained in paragraph 4.3 above.

#### **9.5 Fees**

There are two basic types of fees applicable in terms of PAIA, the request fee and the access fee.

##### **9.5.1 Request Fee**

9.5.1.1 The request fee is an administration fee that is payable on submission of the request for access to a record. The fee must be paid before the request is considered, unless the request is to access the Requester’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.

9.5.1.2 The request fee that the Requester must pay to a private body is currently set at R50-00 (fifty rand).

9.5.1.3 In accordance with section 23(1)(a) of POPIA, a Data Subject (i.e. Personal Requester) has a right to request MA Inc. to confirm, free of charge, whether or not MA Inc. holds Personal Information about the Data Subject.

#### 9.5.2 Access Fee

9.5.2.1 The access fee is payable prior to the Requester gaining access to the records in the required form.

9.5.2.2 The access fee is intended to reimburse MA Inc. for the costs involved in reproduction of documents, searching and preparing the record requested and for any time reasonably required to search and prepare the record.

9.5.2.3 MA Inc. may withhold a record until the Requestor has paid the applicable fees (if any).

9.5.2.4 In accordance with Section 23(3) of POPIA, MA Inc. may charge an access fee to the Data Subject to enable MA Inc. to respond to the request. In such instances MA Inc. must provide the Data Subject with a written estimate of the fee before providing the record.

### 10. GROUNDS FOR REFUSING A REQUEST

10.1 MA Inc. has the right to reject any request for information submitted in terms of sections 63 to 69 of Chapter 4 of PAIA.

10.2 Requesters will be informed within 30 (thirty) days of receipt of the prescribed access form if MA Inc.'s decision is to refuse access to the information requested based on any of the grounds for refusal as contemplated in Chapter 4 of PAIA.

10.3 The 30 (thirty) days period may be extended for a further 30 (thirty) days should more time be required to gather the requested information. The Requester will however be notified if the initial 30 (thirty) days period is to be extended for a further 30 (thirty) days.

### 11. INFORMATION OR RECORDS NOT FOUND

11.1 If all reasonable steps have been taken by MA Inc. 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.

11.2 The affidavit or confirmation will comply with all the requirements provided for in terms of section 55(2) of PAIA.

- 11.3 In the event that the record is found subsequently, MA Inc. will contact the Requester in order to gain access to same, subsequent to the payment of the applicable access fee.

## **12. INFORMATION REQUESTED ABOUT A THIRD PARTY**

- 12.1 Section 71 of PAIA makes provision for a request for information or records about a Third Party. In considering such a request, MA Inc. will adhere to the provisions of sections 71 to 74 of PAIA.
- 12.2 The attention of the Requester is drawn to the provisions of Chapter 5 of PAIA in terms of which MA Inc. is obliged, in certain circumstances, to advise Third Parties of requests lodged in respect of information applicable to or concerning such Third Parties. In addition, the provisions of Chapter 5 of PAIA entitle Third Parties to dispute the decisions of the Head of the Private Body by referring the matter to the High Court.

## **13. APPEALS**

- 13.1 In accordance with the provisions of Chapter 1 of Part 4 of PAIA, a Requester may lodge an appeal with the Information Regulator against a decision of the Information Officer of MA Inc. to refuse a request for access.
- 13.2 In accordance with the provisions of Chapter 1 of Part 4 of PAIA, a Third Party may lodge an appeal with the Information Regulator against the decision of the Information Officer of MA Inc. to grant a request for access.

## **14. AVAILABILITY OF THE MANUAL**

This Manual is available for inspection at the offices of MA Inc. free of charge, as well as on the MA Inc. website.

## **15. UPDATING OF THE MANUAL**

MA Inc. will update this Manual at such intervals as may be required and the updated versions will be placed on our website.

## **16. FEES IN RESPECT OF PRIVATE BODIES**

The forms and fees prescribed under PAIA are available from the South African Human Rights Commission's website ([www.sahrc.org.za](http://www.sahrc.org.za)) and the Department of Justice and Constitutional Development's website [www.doj.gov.za](http://www.doj.gov.za).

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. Of Private 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 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 <i>ONLY</i> if a request <i>for information</i> is made on behalf of <i>another</i> 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.<br>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
Form in which record is required:	
Mark the appropriate box with an X.	
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 for the record, if any, will be determined partly by the form in which access is requested.	

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

<input type="checkbox"/>	listen to the sound track audio cassette	<input type="checkbox"/>	transcription of soundtrack* written or printed document
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### 4. 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* (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..... On this.....day of .....20...

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