

McLARENS ATORNEYS

MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT NO. 2 OF 2000 (PAIA)

This Manual has been prepared in accordance with section 51 of PAIA to assist potential Requesters in requesting information (documents or records) from McLaren's Attorneys as contemplated under PAIA.

A Requester is invited to contact the Information Officer (details set out below) should he or she require any assistance in respect of any issues contained in this Manual.

The Manual may be amended from time to time and will be published and distributed in accordance with the Act.

1. DEFINITIONS

The following words or expressions will bear the following meanings in this Manual -

- 1.1 "the Act" means the Promotion of Access to Information Act No. 2 of 2000, together with any regulations published thereunder;
- 1.2 "Client" means a natural or juristic person who or which receives services from McLaren's;
- 1.3 "Correspondence" means written and electronic communication exchanged between two or more parties;
- 1.4 "Employee" means any person who works for, or provides services to, or on behalf of McLaren's, and receives or is entitled to receive remuneration;
- 1.5 "Information Officer" means the designated information officer/s or the head of the body, as described in this Manual;
- 1.6 "Manual" means this manual, together with all annexures thereto as amended from time to time;
- 1.7 "McLaren's" means McLaren's Attorneys, a sole proprietor who renders legal services, and includes the terms "we", "us", and "our";
- 1.8 "Requester" means any person or entity requesting access to a record that is under the control of McLaren's; and
- 1.9 "SAHRC" means the South African Human Rights Commission.

2. SCOPE OF MANUAL

This Manual has been prepared in respect of McLaren's Attorneys.

3. HOW TO ACCESS INFORMATION

(Information provided in terms of section 51(1)(b) of the Act)

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

Requests in terms of the Act shall be made in accordance with the prescribed procedures, and at the prescribed fees.

A guide on how to use the Act has been compiled by the SAHRC in terms of section 10 of the Act and is available on the SAHRC website (www.sahrc.org.za). Any queries should be directed to -

The South African Human Rights Commission PAIA Unit
Research and Documentation Department

Postal Address: Private Bag 2700 Houghton 2041 South Africa

T +27 (0)11 877 3600

F +27 (0)11 403 0625
E paia@sahrc.org.za
W www.sahrc.org.za

4. McLARENS CONTACT DETAILS

McLarens Attorneys is a sole proprietor who provides legal services to natural persons and juristic entities in South Africa and abroad.

PHYSICAL & POSTAL ADDRESS

279 Long Avenue
Ferndale,
Randburg
2160
PO BOX 989
Ferndale,
Randburg
2160

INFORMATION OFFICER

Gaye Hitge
gaye@mclarens.co.za

DEPUTY INFORMATION OFFICER

Ian McLaren
ian@mclarens.co.za
info@mclarens.co.za

5. INFORMATION KEPT BY MCLARENS IN ACCORDANCE WITH LEGISLATION.

Records are kept in accordance with legislation applicable to McLarens, which includes but is not limited to, the following -

- Administration of Estates Act, No.66 of 1965;
- Attorneys Act, No. 53 of 1979;
- Basic Conditions of Employment Act, No. 75 of 1997;
- Companies Act, No. 61 of 1973 (*repealed, save for chapter 14*);
- Companies Act, No. 71 of 2008;
- Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993;
- Competition Act, No. 89 of 1998;
- Consumer Protection Act, No. 68 of 2008;
- Copyright Act, No. 98 of 1978;
- Currency and Exchanges Act, No. 9 of 1933;
- Credit Agreements Act, No. 75 of 1980 (*repealed*);

- Debt Collectors Act, No. 114 of 1998;
- Electronic Communications and Transactions Act, No. 25 of 2002;
- Employment Equity Act, No. 55 of 1998;
- Financial Intelligence Centre Act, No. 38 of 2001;
- Income Tax Act, No. 58 of 1962 (Section 75) (*repealed*);
- Labour Relations Act, No. 66 of 1995;
- Medical Schemes Act, No. 131 of 1998;
- National Credit Act, No. 34 of 2005;
- Occupational Health and Safety Act, No. 85 of 1993;
- Pension Funds Act, No. 24 of 1956;
- Protection of Personal Information Act, No.4 of 2013;
- Regulation of Interception of Communications and Provision of Communication- Related Information Act, No. 70 of 2002;
- Stamp Duties Act, No. 77 of 1968 (*repealed*);
- Skills Development Act, No. 97 of 1998;
- Skills Development Levies Act, No. 9 of 1999;
- Tax on Retirement Funds Act; No. 38 of 1996;
- Trade Marks Act, No. 194 of 1993;
- Trust Property Control Act, No. 57 of 1988;
- Unemployment Insurance Act, No. 63 of 2001;
- Unemployment Insurance Contributions Act, No. 4 of 2002;
- Value Added Tax Act, No. 89 of 1991.

Records kept in terms of the above legislation may, in certain instances (and insofar as the information contained therein is of a public nature) be available for inspection without a person having to request access thereto in terms of the Act.

6. INFORMATION HELD BY MCLARENS IN TERMS OF THE ACT.

Records are kept in accordance with the Act, which includes but is not limited to, the following – Please note the inclusion of any category of records should not be taken to mean that records falling within that category will be made available under the Act. In particular, certain grounds of refusal as set out in the Act may be applicable to a request for such records.

Financial Records

- Annual financial statements of McLarens
- Tax returns of McLarens
- Accounting records of McLarens
- Banking records of McLarens
- Audit reports conducted for McLarens
- Invoices in respect of creditors and debtors of McLarens
- Fidelity Fund certificates
- Bank facilities and account details

Company Records

- List of employees
- Contracts of employment with employees of McLarens

Human Resources

- Personnel records of each employee of McLarens
- Disciplinary records
- Employee tax information
- Training schedules and manuals
- Agreements with clients of McLarens
- Files relating to client matters
- Payroll records
- Internal policies and procedures

Client documentation

- Correspondence with clients
- Correspondence with third parties
- Records regarding legal proceedings involving clients
- Research conducted on behalf of clients
- Other information relating to, or held on behalf of clients

Immovable and Movable property

- Bond accounts

- Records regarding insurance
- Asset register

Information technology

- Precedent database
- Records regarding computer systems and programmes held by McLarens

Library Information

- Electronic and hard copy publications of books, periodicals, circulars, and legislation

Website

- www.mclarens.co.za

Miscellaneous

- Internal correspondence
- Agreements with suppliers

7. REQUEST PROCEDURES

Records, whether specifically listed in this Manual or not, will only be made available subject to the provisions of the Act.

Form of request

The Requester must use the prescribed form to make the request for access to a record. This must be made to the Information Officer at the address, fax number or electronic mail address of the body concerned [See s 53(1) of the Act].

The Requester must provide sufficient detail on the request form to enable the Information Officer to identify the record and the Requester. The Requester should also indicate which form of access is required and specify a postal address, fax number in the Republic or email address. The Requester should also indicate if, in addition to a written reply, any other manner is to be used to inform the Requester and state the necessary particulars to be so informed [See s 53(2)(a) and (b) and (c) and (e) of the Act].

The Requester must identify the right that is sought to be exercised or protected and provide an explanation of why the requested record is required for the exercise or protection of that right [See s 53(2)(d) of the Act].

If a request is made on behalf of another person, the Requester must submit proof of the capacity in which the Requester is making the request to the satisfaction of the head of the private body [See s 53(2)(f) of the Act].

Fees

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 requesting access to a record containing personal information about

him/her or itself, must pay the required request fee.

The Information Officer must by notice require the Requester (other than a personal Requester) to pay the prescribed request fee (if any) before further processing the request [See s 54(1) of the Act].

The fee that the Requester must pay to a private body is R50. The Requester may lodge an application to the court against the tender or payment of the request fee [See s 54(3)(b) of the Act].

If access to a record/s is granted by McLarens, the Requester may be required to pay an access fee for the search for and preparation of the records and for re-production of the record/s.

The access fees which apply are set out below (Part III of Annexure A of the Regulations to the Act). McLarens can withhold a record/s until such access fees have been paid.

	Reproduction	Fee (Rand)
1.	Photocopy of an A4-size page or part thereof	R1.10 per page
2.	Printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	R0.75 per page
3.	A copy of, in a computer readable form on- Stiffy disc Compact disc	R7.50 R70.00
4.	Transcription of visual images on an A4-size page or part thereof	R40.00 per page
5.	Copy of visual images	R60.00
6.	Transcription of an audio record on an A4-size page or part thereof	R20.00
7.	Copy of an audio record	R30.00

Decision on request

After the Information Officer has made a decision on the request, the Requester will be notified using the required form.

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

Grounds of refusal of access

In terms of Part 3, Chapter 4 of the Act, McLarens may and in certain instances must refuse access to records on the grounds set out in the Act. The grounds include:

- professional privilege;
- that the record constitutes privileged information for the purposes of legal proceedings;
- that it is necessary to protect the commercial information or the confidential information of a third party;
- that it is necessary to protect the commercial information of or of McLarens;
- that it is necessary to protect the safety of individuals or property;
- that it is necessary to protect the research information of a third party or of McLarens; and
- that granting access would result in the unreasonable disclosure of personal information about a third party.

8. RECORDS OR INFORMATION NOT FOUND

If, after all reasonable steps to locate a record have been taken, and no record is found, then the Information Officer will notify the Requester, by way of an affirmation or affidavit that access to the requested and titled document cannot be provided. The affirmation or affidavit will include detailed account of the steps taken to try locate the record.

Should a record be found at a later stage, the Information Officer shall provide the Requester access to such record, unless access to the record is refused on the grounds permitted by the Act (Part 3, Chapter 4).

9. OTHER INFORMATION HELD BY CLIFFE DEKKER HOFMEYR AS PRESCRIBED

(Other information as may be prescribed under section 51(1)(f))

The Minister of Justice and Constitutional Development has to date not made any regulations regarding disclosure of other information.

10. AVAILABILITY OF THE MANUAL

(Availability of Manual under section 51(3))

This Manual is available for inspection by the general public upon request, during office hours and free of charge, at the offices of McLarens Attorneys. Copies of the Manual may be made, subject to the prescribed fees.

Copies may also be requested from the South African Human Rights Commission. The Manual is also posted on www.mclarens.co.za.

11. PRESCRIBED FORMS AND FEE STRUCTURE

(Prescribed forms and fee structure in respect of private bodies s 53 and 54 of the Act)

The forms and fee structure prescribed under the Act are available from the Government Gazette, or at the website of the Department of Justice and Constitutional Development (www.doj.gov.za), under the 'regulations' section as well as the SAHRC website (www.sahrc.org.za).