

# MARAI PACITTI

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## MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, NO. 2 OF 2000

### 1. Introduction

The Promotion of Access to Information Act, Act 2 of 2000 (hereinafter referred to as “PAIA”) seeks to give effect to the Constitutional right to access of information. This manual is made available in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 as amended from time to time (“PAIA”) and regulation 4(1)(c) and 4(1)(d) of the Protection of Personal Information Act 4 of 2013 (“POPIA”) Regulations. The purpose of this manual is to inform you of the following:

- 1.1.1. The procedures and relevant legislative provisions applicable to all requests for access to information that is submitted to us;
- 1.2. The types of records and information that we hold;
- 1.3. Records that are automatically available upon request;
  - 1.3.1. Records that will only be made available upon consideration of a request submitted in terms of PAIA
  - 1.3.2. How we collect, use, share and otherwise process your personal information, in accordance with POPIA.
- 1.4. Your rights as data subject in terms of POPIA.

### 2. Availability of the Manual

Our manual is available on our website: <https://mpattorneys.co.za/>

A copy of our manual is also available for perusal at our offices.



Partners: Esri Marais LLB (Stell) Gabriella Pacitti LLB (Stell)  
Associates: Michelle Clift LLB (Stell) Anya George LLB (Stell)

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A physical copy of our manual can be made available upon request in writing and upon payment of the prescribed fee

## 3. Contact Details of Marais Pacitti Attorneys

### 3.1 Contact Details

3.1.1 Name: Marais Pacitti Attorneys

3.1.2 Postal Address: 1st Floor, Vunani Chambers, 33 Church Street Cape Town, 8001

3.1.3 Physical Address:

Cape Town Office: 1st Floor, Vunani Chambers, 33 Church Street Cape Town, 8001

Stellenbosch Office: Devonbosch Estate, Bottelary Road Cape Town, 7536

3.1.4 Phone Number: 021 569 0632

3.1.5 Website: <https://mpattorneys.co.za/>

### 3.2 Information Officer

3.2.1 Name: Gabriella Pacitti

3.2.2 Designation: Partner

3.2.3 E-mail Address: [gabriella@mpattorneys.co.za](mailto:gabriella@mpattorneys.co.za)

3.2.4 Postal Address: 1st Floor, Vunani Chambers, 33 Church Street Cape Town, 8001

3.2.5 Street Address: 1st Floor, Vunani Chambers, 33 Church Street Cape Town, 8001

3.2.6 Phone Number: 021 569 0632



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## 4. Guide in terms of Section 10 of the Act (Section 51(1)(b) of the Act)

In terms of Section 10 of the Act, a guide will be compiled by the South African Human Rights Commission (hereafter referred to as SAHRC) containing such information as may be required by a person who wishes to exercise any right contemplated in the Act. The guide will be made available in all official languages by the SAHRC and is obtainable from the SAHRC.

Contact details of the South African Human Rights Commission are as follows :

PAIA Unit

The Research and Documentation Department

Private Bag 2700

HOUGHTON 2041

Telephone : +27 11 484 8300

Fax : +27 11 484 0582/1360

Website : [www.sahrc.org.za](http://www.sahrc.org.za)

E-mail : [PAIA@sahrc.org.za](mailto:PAIA@sahrc.org.za)

## 5. List of records that are automatically available

The following categories of records are automatically available for inspection or photocopying (prescribed fees will be charged for any copies made):



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- 5.1 This manual;
- 5.2 Any information on our website;
- 5.3 Brochures;
- 5.4 Other literature intended for public viewing.

## 6. Categories of records that are automatically available without a person having to request access in terms of PAIA

This is limited to information that is readily available to the public, included and not limited to any information held by the Companies and Intellectual Property Commission, the Deeds Office and available on the internet.

## 7. Records maintained in accordance with any other legislation

In compliance with section 51(1)(d) of PAIA, a list of records kept by us is attached as Annexure A hereto. Kindly note that the table in Annexure A indicates the availability of such records, these may either be available freely to the public or will be made available the Requester, subject to a successful request in terms of the relevant PAIA or POPIA sections.

## 8. Types of Records held by Marais Pacitti Attorneys

In terms of Section 51(1)(e) of PAIA, a list of records is attached as Annexure B hereto.

Kindly note that the table in Annexure B indicates the availability of such records, these may either be available freely to the public or will be made available the Requester, subject to a successful request in terms of the relevant PAIA or POPIA sections.



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## 9. Access Request Procedures

In terms of section 53, a request for access to a record of a private body must be made in the prescribed form sent to our address, fax number or electronic mail address.

### 9.1 Submission of Request

You are required to complete and submit the prescribed Request for Access form, attached as Annexure C hereto. This form should be accompanied by payment of a request fee and a deposit (if applicable). Submission must be made to the Information Officer as set out in clause 2.2 above.

You will be required to provide sufficient details to enable us to identify the following:

1. requested record(s);
2. Requester (and proof of capacity to request the record(s) on behalf of someone else);
3. Postal address or fax number of the Requester in the Republic;
4. Right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right; and
5. If the Requester wishes to be informed of the decision in any manner (in addition to written) the manner and particulars thereof should also be provided to us.

### 9.2 Grounds for Refusal of Access To Certain Records

In terms of Part 3, Chapter 4 of PAIA there are a number of grounds that warrant the refusal to release certain records. Such instances include mandatory protection of -

#### 9.2.1 privacy of a third party who is natural person;



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- 9.2.2 commercial information of a third party;
- 9.2.3 certain confidential information of a third party;
- 9.2.4 information relating to the safety of individuals and protection of property;
- 9.2.5 records privileged from production in legal proceedings;
- 9.2.6 commercial information of a private body; and
- 9.2.7 research information of third parties, and protection of research information of private bodies.

Requests for records which are clearly frivolous, vexatious or involve an unreasonable diversion of resources may also be refused.

## 10. Decision to grant or deny access

Our Information Officer will deliberate and decide on the request of the Requester within 30 (thirty) days of receipt of the request for access.

In cases where the request for access is for a large number of records or the request requires a search at more than one of our offices the period may be extended for a further period of up to 30 (thirty) days.

## 11. Remedies for refusal of request to access information request

### 11.1 Internal Appeal

The decision of the Information Officer is final in terms of our internal procedures for access to information. The external remedies set out below remain available to the Requester, however there is no internal appeal procedure.



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## 11.2 External Appeal

The Requester may in terms of sections 56(3)(c) and 78 of PAIA apply to a court within 180 days of notification of the decision for appropriate relief.

## 12. Fee

### 12.1 Request Fee

The Request Fee is a standard fee, which will be communicated to the Requester upon submission of the request and which is payable before the request will be processed. Should the request for access to information be approved, further fees will be payable in terms of PAIA and these fees will be communicated to the Requester by the Information Officer. An itemised fee structure is available on SAHRC website.

### 12.2 Deposit

In the event that the preparation of the records requested exceed 6 (SIX) hours, a deposit is payable equal to not more than one third of the access fees (which would be payable if the request were to be granted).

### 12.3 Payment of fees

Records successfully requested will only be released to the Requester once all fees have been paid in full.

### 12.4 Requestor other than Personal Requestor

The information officer will give written notice to a requestor other than a personal requestor of the request fee and amount to be paid before the request may be further processed.



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## 12.5 Personal Requestor

A personal requestor is someone who is requesting information that is held relating to them personally. A personal requestor will not be liable for a request fee but will be liable for the payment of an access fee if such request is granted.

## 13. The Protection of Personal Information Act Privacy Statement

### 13.1 Definitions

“We, us and our”	Marais Pacitti Attorneys
“You and your”	the data subject
“Your personal information”	means personal information about you, such as Initials, first name, surname; Date of birth; Email address; Age; Language preference; Bank details; Marital status; Gender; Telephone number; Cellphone number; Fax number; ID Number; Passport Number; Registration Number.
“Processing information”	means the automated or manual activity of collecting, recording, organising, storing, updating, distributing and removing or deleting personal information.



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## 13.2 Purpose of this Privacy Statement

13.2.1 The purpose of this Privacy Statement is to set out how we collect, use, share and otherwise process your personal information, in accordance with the Protection of Personal Information Act, Act 4 of 2013 (“POPIA”).

13.2.2 When you use our services you trust us with personal information about yourself. We are committed to protecting your constitutional right to privacy.

## 13.3 Acceptance is voluntary

13.3.1 You have the right to object to the processing of your personal information. It is voluntary to accept these terms and conditions.

13.3.2 We do however, require your acceptance to use our services. This means that if you do not accept, you cannot use our services.

13.3.3 Save as provided in this privacy policy, we will keep your personal information confidential. We will only process your personal information with your consent, save for instances where there is a legal duty on us to process such information.

## 13.4 Types of personal information collected

We collect various categories of general and special Personal Information, as the context and relevant circumstances may require.

## 13.5 Categories of data subject

We collect personal information from the following data subjects:

13.5.1 Customers and potential customers;

13.5.2 Suppliers; and



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13.5.3 Employees.

## 13.6 The Processing of Personal Information

13.6.1 We collect your personal information in the following way:

13.6.1.1.1 Directly from you or from a person or body authorised by you to provide such information;

13.6.1.1.2 Through your interaction with our website and through emails, letters, telephone calls and WhatsApp messages;

13.6.1.2 From public sources.

13.6.2 If you share your personal information with any third parties, we will not be responsible for any loss suffered by you.

13.6.3 We will only process your personal information for the lawful purpose for which it was collected.

13.6.4 You agree that we may process your personal information for the following purposes:

13.6.4.1 Administering our products and services;

13.6.4.2 to enable you to effectively interact with our website;

13.6.4.3 to communicate with you and carry out your instructions and requests;

13.6.4.4 to directly market our services to you.

## 13.7 Collection of data directly from you

We shall, as far as possible, always collect your personal information directly, save where your information is collected from a public source, or from a third party with your written consent. If we collect personal information from a source other than you, we shall record in writing the details of that source, including the full names and contact details of that source where applicable. We may collect your personal information through your interactions with



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our website, including and not limited to the completion of an enquiry form, when you subscribe for a service, when you request further services or when making a complaint.

## 13.8 Consent

By using our products and services, you confirm you give us consent so that we may:

13.8.1 process your information as set out in this privacy statement;

13.8.2 share such personal information with third parties only on the basis as set out in this privacy statement.

## 13.9 Security Safeguards

We have physical, technological and procedural security safeguards in place and will do our best to ensure the protection of your personal information. We will take all reasonable steps to prevent the loss, abuse or misuse of your personal information.

## 13.10 Automated processing

We may process your information by using automated means (without human intervention in any decision-making process). You may query any decision made by automated means.

## 13.11 Sharing personal information with third parties

We will only share your information with a third party if:

13.11.1 you have already given your consent for the disclosure of this information to that third party; or

13.11.2 we have a legal or contractual duty to give the information to that third party and such sharing is in accordance with POPIA; or

13.11.3 for any of the purposes set out herein.



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## 13.12 Direct Electronic Marketing

13.12.1 If you are currently subscribed to our mailing list, you may opt out of direct marketing by unsubscribing from our mailing list.

13.12.2 If you are a new user, we will not send you direct marketing via electronic means unless you provide your consent by opting in for direct marketing.

## 13.13 Rights of Data Subject

13.13.1 You have the right to know what personal information we hold

You have the right to know what personal information we hold about you. If you wish to request any information that we hold, you will be required to lodge the prescribed Form C in terms of Section 53 of the Promotion of Access to Information Act 2 of 2000. Such form will be made available to you upon request.

We will take all reasonable steps to confirm your identity before providing details of your personal information.

We are entitled to charge a fee for this service and will let you know what it is at the time of your request.

13.13.2 You have the right to ask us to update, correct or delete your personal information.

If you are aware of any personal information in our custody which is incorrect, inaccurate or which needs to be updated, you will be required to lodge the prescribed Form 2, attached as Annexure D hereto. If you contest the accuracy of any personal information being used by us, we shall immediately stop using that information until its accuracy has been verified.

Where we cannot delete your personal information, we will take all steps to make it anonymous. You agree that we may keep your personal information until you ask us to



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delete or destroy it. This is unless the law requires us to keep it. Examples of laws which require us to keep your information include POPIA and the Consumer Protection Act 68 of 2008.

13.13.3 You have the right to object to the processing of your personal information  
If you wish to object to the processing of your personal information, you will be required to lodge the Prescribed Form 1, attached as Annexure E hereto. Such form will be made available to you upon request.

## 13.14 If you have any concerns

If you believe that we have used your personal information contrary to the information contained in this manual or POPIA you must first attempt to resolve any concerns with us. If you are not satisfied after this process, you have the right to lodge a complaint with the Information Regulator, under POPIA.



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## Annexure A: Records maintained in accordance with Legislation Applicable to Marais Pacitti Attorneys

The Companies Act 71 of 2008

Basic Conditions of Employment Act 75 of 1997

Broad Based Black Economic Empowerment Act 53 of 2003

Compensation for Occupational Injuries and Diseases Act 130 of 1993

Consumer Protection Act 68 of 2008

Electronic Communications and Transactions Act 25 of 2002

Employment Equity Act 55 of 1998

Financial Intelligence Centre Act 38 of 2001

Income Tax Act 95 of 1967

Labour Relations Act 66 of 1995

Legal Practice Act 28 of 2014

National Credit Act 34 of 2005

Pension Funds Act 24 of 1956

Prevention of Organised Crime Act 121 of 1998

Promotion of Access of Information Act 2 of 2000

Protection of Personal Information Act 4 of 2013

Unemployment Insurance Act 30 of 1996



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## Annexure B: Records held by Marais Pacitti Attorneys

The inclusion of any subject or category of records should not be taken as an indication that records falling within those subjects and/or categories will be made available under PAIA. In particular, certain grounds of refusal as set out in PAIA may be applicable to a request for such records.

The following categories of records are held by us:

1. Statutory company information;
2. Financial and tax records;
3. Banking details;
4. Human resources / Employment records;
5. Intellectual property;
6. Permits and licences;
7. Insurance records;
8. Immovable and movable property;
9. Information technology;
10. Specific agreements relating to our business activities;
11. Policy documents
12. Miscellaneous agreements;
13. Internal and external correspondence;
14. Information relating to legal proceedings;
15. Overseas interests and investments;
16. Records pertaining to our clients/customers



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