

# PROMOTION OF ACCESS TO INFORMATION ACT MANUAL

Compiled in accordance with the requirements of the  
Promotion of Access to Information Act Act No. 2 of 2000



**Adams & Adams**

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[www.adams.africa](http://www.adams.africa)

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## 1. INTERPRETATION TO THIS MANUAL

Adams & Adams is defined as a private body in terms of the Act.

In this manual, unless the context indicates a contrary intention, the following words and expressions shall bear the meanings assigned to them hereunder and cognate words and expressions shall bear corresponding meanings:

<b>Chairman</b>	The head of the Firm and the Information Officer for the purposes of the Act;
<b>Constitution</b>	Act 108 of 1996;
<b>Requester</b>	Any person or entity requesting access to a record held by Adams & Adams;
<b>SAHRC</b>	the South African Human Rights Commission;
<b>Section 10 Guide</b>	the guide compiled by the South African Human Right Commission in terms of section 10 of the Promotion of Access to Information Act No 2 of 2000;
<b>The Act</b>	The Promotion of Access to Information Act No 2 of 2000, as amended and its accompanying regulations;
<b>The Firm</b>	Adams & Adams Attorneys;

Reference to any information in this manual in addition to that specifically required in terms of Section 51 of the Act does not create any right or entitlement to receive such information, other than in terms of the Act.

## 2. INTRODUCTION

Adams & Adams is an internationally recognised and leading African law firm that specialises in providing intellectual property, corporate and commercial services.

With primary office locations in South Africa and branches and associate offices in a number of African countries, our firm's leadership position as the largest intellectual property law practice in Africa, and one of South Africa's foremost corporate, property and commercial law firms is reflected in the ground-breaking work we do and the valuable client relationships we have with many of the world's largest corporations and organisations, as well as small to medium-sized companies.

Our Intellectual Property law practices work with clients around the globe and across many industries to protect, enforce and commercialise their intellectual property. The group offers clients a full range of legal services relating to the acquisition, enforcement and commercialisation of intellectual property rights. These services include counsel and handling of transactions in cases involving patents, copyrights, trade marks, designs, licensing, and data security. The partners and associates in our Intellectual Property Group also litigate these issues in courts across Africa. Adams & Adams is the largest IP firm in Africa and is ranked among the leading firms in Intellectual Property in the world.

Likewise, the Adams & Adams general commercial legal services practices boast competent and powerful teams that are purposed to represent clients in expertise areas such as commercial and contract law, commercial litigation, property services, public procurement, banking and finance, mergers and acquisitions, tax, exchange control, franchising, competition, labour, personal injury, arbitration and dispute resolution, among others. As a leader among law firms involved in commercial services and other corporate transactions, the



transactional and litigation experience of our attorneys, the breadth of our practice and the geographical reach of our offices in Africa have allowed us to maintain a competitive leadership position, representing a broad array of public and private companies, private equity firms and financial institutions, governmental entities, and other institutions and individuals in almost every type of commercial law situation.

Adams & Adams is firmly rooted in Africa – with a tenacious belief in the economic growth potential and spirit of the continent. Our head office in Pretoria, the capital of South Africa, provides the perfect gateway through which our partners, supported by some 700 professionals and staff, render a broad range of legal services to clients in Africa and the rest of the world.

Through our associate offices and long-established networks, we serve our global client base throughout the African continent - in matters of intellectual property, commercial law, property and litigation. Adams & Adams regularly hosts a meeting of partners from associate offices throughout the continent– a network meeting designed to maintain relationships, build capacity and share information about updates on intellectual property and corporate & commercial developments across the continent.

This manual has been compiled in fulfilment of the requirements of section 51 (1) of the Act.

### 3. CONTACT DETAILS IN TERMS OF SECTION 51 (1) (a)

<b>Chairman:</b>	Gérard du Plessis
<b>Postal Address:</b>	P O Box 1014 Pretoria 0001 South Africa
<b>Physical Address:</b>	Lynnwood Bridge Office Park 4 Daventry Street Lynnwood Manor Pretoria South Africa
<b>Docex:</b>	081, Pretoria
<b>Telephone:</b>	+27 (12) 432-6000
<b>Fax:</b>	+27 (12) 432 6599
<b>E-mail:</b>	Gerard.duplessis@adams.africa
<b>Website:</b>	<a href="http://www.adams.africa">www.adams.africa</a>

### 4. SECTION 10 GUIDE TO THE ACT IN TERMS OF SECTION 51 (1) (b)

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 for access to information with the Firm, the public body must be acting in the public interest.



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Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided and gazetted by the Minister from time to time. The applicable forms and tariffs are specified in the Act.

Requesters are referred to the Section 10 Guide to the Act which has been compiled by the SAHRC. This Section 10 Guide which will contain information which will be of assistance to the requester for the purposes of exercising their Constitutional Rights.

The Section 10 Guide is available from the SAHRC whose details follow:

**South African Human Rights Commission**

Private Bag X2700  
Houghton  
2041

**Telephone:** +27 (11) 877-3600

**Fax:** +27 (11) 403-0625

**Email:** PAIA@sahrc.org.za

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

## 5. SECTION 51(1)(c) NOTICE(S) IN TERMS OF SECTION 52 (2)

The Firm has not yet issued any notices in terms of the provisions of section 52 (2) of the Act and all requests for access to information should be made in accordance with the procedure set out in paragraph 7 of this manual.

Save for marketing and publicity material, all records held by the Firm are deemed to be confidential and any request for access to information will be balanced against, inter alia, the principles of legal professional privilege, attorney-client confidentiality, and the limitations to the the right of access of information set out in section 36 of the Constitution and sections 5 and 62 of the Act.

## 6. RECORDS OF THE FIRM WHICH ARE AVAILABLE IN ACCORDANCE WITH ANY OTHER LEGISLATION IN TERMS OF SECTION 51(1)(d)

### 6.1. To the extent applicable, the Firm maintains such information and documents as may be required in accordance with, inter alia, the following legislation;

Administration of Estates Act 66 of 1965  
Attorneys Act 53 of 1979  
Basic Conditions of Employment Act 75 of 1997  
Broad-Based Black Economic Empowerment Act 53 of 2003  
Companies Act 71 of 2008  
Compensation for Occupational Injuries and Diseases Act 130 of 1993  
Consumer Protection Act 68 of 2008  
Copyright Act 98 of 1978



Counterfeit Goods Act 37 of 1997  
 Currency and Exchanges Act 9 of 1933  
 Designs Act 195 of 1993  
 Employment Equity Act 55 of 1998  
 Electronic Communications and Transactions Act 25 of 2002  
 Financial Intelligence Centre Act 38 of 2001  
 Income Tax Act 58 of 1962  
 Information Act 70 of 2002  
 Intellectual Property Amendment Act 28 of 2013  
 Insolvency Act 24 of 1936  
 Labour Relations Act 66 of 1995  
 Medical Schemes Act 131 of 1998  
 Merchandise Marks Act 17 of 1941  
 National Credit Act 34 of 2005  
 Occupational Health and Safety Act 85 of 1993  
 Patents Act 57 of 1978  
 Pension Funds Act 24 of 1956  
 Plant Breeders' Rights Act 15 of 1976  
 Promotion of Access of Information Act 2 of 2000  
 Registration of Copyright in Cinematograph Films Act 62 of 1977  
 Skills Development Act 97 of 1998  
 Skills Development Levies Act 9 of 1999  
 Stamp Duties Act 77 of 1968  
 Tax on Retirement Funds Act 38 of 1996  
 Trade Marks Act 194 of 1993  
 Trust Property Control Act 57 of 1988  
 Unemployment Insurance Act 63 of 2001  
 Unemployment Insurance Contributions Act 4 of 2002  
 Value Added Tax Act 89 of 1991

## 6.2. Schedule of records held by the Firm

The following is a list of the subjects on which the Firm holds records and the categories into which the stated subjects fall.

DEPARTMENT	DESCRIPTION OF RECORDS HELD
<b>MANAGEMENT</b>	Documents pertaining to the Partnership and the Partners of Adams & Adams
	Resolutions of the Partners of Adams & Adams
	Minutes of meetings of the Partners of Adams & Adams
	Minutes of meetings of committees and sub-committees of Adams & Adams
<b>FINANCE</b>	Financial Records and Tax Records
	Insurance records
	Auditors' reports
	Banking records for business and trust accounts
<b>MARKETING</b>	Firm publications
	Marketing brochures



	Firm and Attorney Profiles
<b>HUMAN RESOURCES</b>	Staff training material
	List of employees
	Correspondence relating to personnel
	Employment contracts
	Personnel records including personal details, disciplinary records, performance and internal evaluation records
	Unemployment Insurance Fund contribution records
	Payroll records
	Health and safety records
	Internal policies and procedures
	Codes of conduct
	Fidelity Fund certificates
<b>ADMINISTRATION</b>	Supplier lists, Agreements and details of suppliers
	Asset registers
	Operational documents
<b>LEGAL SERVICES</b>	Opinions/Advice to clients
	Correspondence with clients
	Records regarding legal matters
	Correspondence with third parties and legal practitioners
<b>LIBRARY</b>	Publications including books, journals, periodicals and circulars
	Government and Provincial Gazettes
	Precedents of case law and legal documents
	Other legal resources, including domestic and international sources
<b>INFORMATION TECHNOLOGY</b>	Records relating to computer software used by Adams & Adams, including software, licence, support and maintenance agreements.
<b>MISCELLANEOUS</b>	Various types of correspondence

## 7. SECTION 51(1)(e) REQUEST PROCEDURE FOR ACCESS TO RECORDS OF THE FIRM

To enable the Firm to process a request for access to information, kindly complete the prescribed form C, which is available on the website of the SAHRC at [www.sahrc.org.za](http://www.sahrc.org.za)

On the prescribed form C provide clear, sufficient and unambiguous details to enable the Firm to ascertain;

7.1. The identity of the requester (If the requester is represented by an agent, sufficient proof



- showing authority to represent the requester and the identity of the agent);
- 7.2. The record/s requested;
  - 7.3. The 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;
  - 7.4. The form of access required;
  - 7.5. If the requester wishes to be informed of the decision in any manner (in addition to a written decision) the manner and particulars thereof; and
  - 7.6. The postal address or fax number of the requester in the Republic.
  - 7.7. The request for access to information must be clearly identified as such and marked for the attention of the Chairman;
  - 7.8. The applicable Prescribed fee as set out in the regulations to the Act must accompany the request for access to information; and
  - 7.9. the duly completed prescribed Form C must be delivered to the Firm. The contact details of the Firm are provided in paragraph 3 of this manual.

Upon due lodgement of a request for access to information lodged with the Firm, the Chairman will consider the request and notify the requester of his decision by way of a sworn affidavit, within the time periods stipulated in the Act, stating clearly whether the request is granted or refused and advising the requester of external remedies which the requester may pursue to dispute the Chairman's decision.

## 8. FEE SCHEDULE IN TERMS OF SECTION 54

The following fees will apply to all requests for access to information held by the Firm save for personal requests which will not subject to a fee:

- 8.1. A requestor must pay the prescribed fees (currently R50.00) before a request will be processed;
- 8.2. Where the preparation of the record requested requires more than the prescribed hours (currently 6 hours), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted);
- 8.3. A requestor may lodge an application with a competent court against the tender/payment of the request fee and/or deposit;
- 8.4. The Firm may withhold access to a record under its control until the requisite fees have been paid;
- 8.5. If a request for access to information is granted, an access fee must be paid before such information is made available to the requester;
- 8.6. The prescribed fee structure for request of access to the records of a private body is available on the website of the SAHRC at [www.sahrc.org.za](http://www.sahrc.org.za)

## 9. OTHER INFORMATION AS MAY BE PRESCRIBED IN TERMS OF THE ACT

### 9.1. Information or records not found

Where the Firm has taken all reasonable steps to find a record but such record is not found, or is found not to exist, the Firm will provide notification of this to the requester in the form of a sworn affidavit.

The sworn affidavit will provide a full account of all steps taken by the Firm to find the record or to determine the existence thereof; and

If the requested record is later found by the Firm, the requester shall be notified and





furnished with the requested document in the manner stipulated by the requester in the application for request for access to information previously lodged by the requester (This will apply to instances where the Firm does not object to disclosing the requested information).

Where the requested record is later found, but the Chairman objects to disclosing the record to the requester, the Firm shall notify the requester of the Firm's decision and advise the requester of external appeal remedies available to dispute the refusal of access to information.

## **9.2. Information requested about a third party**

Where any information relating to a third party is requested from the Firm by a requester, the Firm will notify the third party of the request.

The third party will have an opportunity to grant his, her or its consent to the disclosure of the record or to make representations as to why the requested record should not be disclosed to the requester.

Where the Firm decides to grant access to the record, it will notify all affected third parties who will be entitled to approach a competent court by way of application in relation to such decision.

9.3. This manual is available for inspection at the offices of Adams & Adams; Copies of this manual may be obtained by request at the prescribed fees from Adams & Adams; This manual can also be accessed on the Firm's website [www.adams.africa](http://www.adams.africa) and The South African Human Rights Commission website [www.sahrc.org.za](http://www.sahrc.org.za)

## **9.4. Remedies available to a requester upon refusal of access**

### **9.4.1. Internal remedies**

The Firm does not have any internal appeal procedures that may be followed after a request for access information has been refused. As such, the decision made by the Chairman is final and requestors will have to exercise such external remedies at their disposal if the request for information is refused and the requestor is not satisfied with the answer supplied by the Chairman.

### **9.4.2. External remedies**

A requester that is dissatisfied with the Chairman's decision may, within 30 days of notification of the decision, apply to a competent court for relief.

Likewise, a third party dissatisfied with the Chairman's decision may, within 30 days of notification of the decision, apply to a competent court for relief.

For purposes of the Act, the courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court with similar status.



## 10. ANNEXURES

- 10.1. Prescribed Form C
- 10.2. Prescribed Fee Schedule

This Manual may be updated and amended from time to time as necessary and the latest version will be publicised in the manner prescribed by the Act.

Version 2

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