

DOUGLAS SMART ATTORNEYS
Section 51 Manual
(Section 51 of the Promotion of Access to Information Act No. 2 of 2000)

1 Introduction

Douglas Smart Attorneys (“**DSA**”) is a firm of attorneys conducting business as such.

2 Aim

The aim of this manual is to facilitate the request for access to records of DSA as provided for in the Promotion of Access to Information Act, 2 of 2000 (“**PAIA**”), as amended from time to time, and including the regulations promulgated in terms of PAIA.

3 Head of DSA

The nominated head of DSA is Douglas Edgar Smart.

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4 Section 10 guide

This guide is available from The South African Human Rights Commission.

Please direct any queries to:

The South African Human Rights Commission
Promotion of Access to Information Act Unit
The Research and Documentation Department

Physical address	:	PAIA Unit, 29 Princess of Wales Terrace, Cnr York and Andrew Streets, Parktown
Postal address	:	Private Bag 2700, Houghton, 2041
Telephone	:	+27 (0)11 877-3600
Fax	:	+27 (0)11 403-0668
Website	:	www.sahrc.org.za
E-mail	:	PAIA@sahrc.org.za

5 Records available in terms of other legislation

Information is available in terms of the following legislation, if and where applicable:

- 5.1 Basic Conditions of Employment Act No. 75 of 1997
- 5.2 Closed Corporation Act No. 69 of 1984
- 5.3 Companies Act No. 61 of 1973
- 5.4 Compensation of Occupational Injuries and Diseases Act No. 130 of 1993
- 5.5 Customs and Excise Act No. 91 of 1964
- 5.6 Electronic Communications and Transactions Act No. 25 of 2002
- 5.7 Employment Equity Act No. 55 of 1998
- 5.8 Income Tax Act No. 58 of 1962

- 5.9 Insolvency Act No. 24 of 1936
- 5.10 Labour Relations Act No. 66 of 1995
- 5.11 Occupational Health and Safety Act No. 85 of 1993
- 5.12 Patents Act No. 57 of 1978
- 5.13 Promotion of Access to Information Act No. 2 of 2000
- 5.14 Skills development Levies Act No. 9 of 1999
- 5.15 Trademarks Act No. 194 of 1993
- 5.16 Unemployment Insurance Act No. 30 of 1966
- 5.17 Value-Added Tax Act No. 89 of 1991

6 Latest notice in terms of section 52(2) of PAIA regarding the categories of record of DSA which are available without a person having to request access in terms of PAIA

At this stage no notice(s) has/have been published as contemplated by PAIA.

7 Access to the records held by DSA

This section of the manual sets out the subject and categories of records held by DSA.

The inclusion of any subject or category should not be construed as an indication that DSA holds any records falling within any subject or category or that such records will automatically be available under PAIA.

A request in terms of this section is subject to section 63(1) of PAIA which provides that the head of a private body must refuse a request to a record if the disclosure of the record would involve the unreasonable disclosure of personal information about a third party including a deceased individual.

7.1 Administration/Operations

- 7.1.1 Secretarial records
- 7.1.2 Minutes of management and staff meetings
- 7.1.3 Client lists/register
- 7.1.4 Resolutions
- 7.1.5 Insurance contracts and policies inc. fidelity fund insurance, property insurance and office content insurance
- 7.1.6 Delivery and collection sheets
- 7.1.7 List of suppliers
- 7.1.8 Brochures and publications
- 7.1.9 Documents relating to public relation events
- 7.1.10 Media releases

7.2 Accounting/Financial

- 7.2.1 Accounting records, books and documents
- 7.2.2 Financial records and statements
- 7.2.3 Audit reports
- 7.2.4 Lists of creditors and debtors
- 7.2.5 Bank facilities and bank account information
- 7.2.6 Bank statements and other banking records
- 7.2.7 Liabilities, overdrafts and other borrowing and commitments
- 7.2.8 Vouchers
- 7.2.9 Stock records
- 7.2.10 Asset registers and inventories
- 7.2.11 Sales and fee/billing records
- 7.2.12 Invoices in respect of both creditors and debtors

7.2.13 Tax returns and other documents and/or agreements relating to taxation

7.3 Human Resources

7.3.1 Employment and other contracts with employees

7.3.2 Personnel files incl. personal information, employment history and health records that the firm may hold from time to time

7.3.3 Disciplinary records and other documentation pertaining to disciplinary procedures and proceedings of the firm

7.3.4 Compensation and redundancy payments

7.3.5 Employment equity plan

7.3.6 Skills development program

7.3.7 Training and development manuals and information

7.3.8 general files containing information on employee remuneration and benefits, and employee recruitment and selection information

7.4 Information Technology

7.4.1 Register of hardware and software

7.4.2 Licence, maintenance, support and other agreements relating to the use by the firm of any software and/or hardware

7.4.3 Usage statistics

7.5 Clients

7.5.1 Agreements and mandates with/from clients

7.5.2 Documentation and other information received from clients

7.5.3 Documentation and other information received from third parties in respect of client and/or clients' matters

7.5.4 Correspondence with clients and/or third parties

7.5.5 Research conducted on behalf of clients

7.5.6 Information prepared for clients inc. opinions, memoranda and reports

7.5.7 Records pertaining to legal proceedings of clients

7.5.8 Other information and documentation pertaining to, or held on behalf of, clients of the firm

7.6 Library

7.6.1 Precedent agreements and pleadings

7.6.2 Information circulars and memoranda

7.6.3 Publications

7.6.4 Other information held by the firm's library

7.7 Immovable and movable property

7.7.1 Agreement(s) of Lease of Immovable Property

7.7.2 Agreement(s) of Sale of Immovable Property

7.7.3 Credit Agreement(s) in respect of office equipment

7.7.4 Other agreements for the acquisition and sale of movable property

7.8 Other

- 7.8.1 Correspondence and memoranda to, from and within the firm
- 7.8.2 Agreements to which the firm is a party inc. (where applicable) loan agreements, suretyships, security agreements, agreements with suppliers, confidentiality agreements
- 7.8.3 Records/documents relating to legal proceedings involving the firm
- 7.8.4 Documents concerning compliance by the firm, insofar as may be necessary, with legal obligations in terms of the Attorneys Act No. 53 of 1979, the Occupational Health and Safety Act No. 85 of 1993 and any other applicable environmental legislation

8 **Request procedures**

8.1 Form of request

- 8.1.1 The requester must use the prescribed form to make the request for access to a record. This request must be made to:
 - 8.1.1.1 the head of the private body;
 - 8.1.1.2 the address, fax number or electronic mail address of the firm.
- 8.1.2 The requester must provide sufficient detail on the request form to enable the head of the private body to identify the record and the requester. The requester should also indicate which form of access is required. The requester should also indicate if any other manner is to be used to inform the requester and state the necessary particulars to be so informed.
- 8.1.3 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.
- 8.1.4 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 head of the private body.

8.2 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 a personal requester, must pay the required request fee:

- 8.2.1 The 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.
- 8.2.2 The fee that the requester must pay to a private body is R50.00. The requester may lodge an application to the court against the tender or payment of the request fee.
- 8.2.3 After the head of the private body has made a decision on the request, the requester must be notified in the required form.
- 8.2.4 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.

9 **Other information as may be prescribed**

The Minister of Justice and Constitutional Development has not made any regulations in this regard.

10 **Availability of the manual**

The manual is also available for inspection at the firm's offices (free of charge) at the physical address of the firm as stated above, and copies are available with the South African Human Rights Commission, in the Government Gazette (if the manual is required to be published in the Government Gazette in terms of PAIA), and on firm's website (if the firm has a website).

11 **Prescribed fees and forms**

The prescribed fees and forms for requests to private bodies are available on the website of the Department of Justice and Constitutional Development, www.doj.gov.za.

12 **Updating of this manual**

The head of the firm will update this manual on a regular basis as required by section 51(2) of PAIA.