

# Adams & Adams

ATTORNEYS

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

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### 1. **INTRODUCTION**

#### 1.1 **The provisions of the Act**

The Promotion of Access to Information Act no. 2 of 2000 (the "Act") was enacted on 3 February 2000 and was put into effect in part on 9 March 2001, with section 51 and other sections pertaining to the manuals to be prepared by public and private bodies coming into effect on 15 February 2002.

The object of the Act is to give effect to the constitutional right of access to information held by another and required for the exercise or protection of any right, but importantly, to give effect to such right subject to justifiable limitations such as privacy, commercial confidentiality, and professional privilege. When a request is made by a requester in accordance with the procedure provided for in the Act, for access to information held by a body (being either a public body or a private body), that body is obliged to deal with such a request in the manner prescribed in the Act. More specifically, that body is obliged to release the information except in those cases where the Act expressly provides that the information may not or must not be released.

#### 1.2 **The firm Adams & Adams**

Adams & Adams is a law firm structured as a partnership and providing legal services, advice and legal representation to individual and corporate clients in the area of

intellectual property law and certain other areas of specialisation. In terms of section 1 of the Act, Adams & Adams is a private body.

In the case of private bodies, such as Adams & Adams, the provisions dealing with the form of the request, the fees payable, and the procedure to be followed in regard to a request, are contained in sections 53-60 of the Act. The grounds on which access to information may or must be refused are set out in sections 62-70 of the Act.

### 1.3 **The purpose of the manual**

The purpose of the manual is:

- to make available to potential requesters information regarding the records held by Adams & Adams;
- to define the manner and form in which a request for information must be submitted to Adams & Adams;
- to set out the criteria and grounds, derived from the Act, to be applied by Adams & Adams in granting or refusing a request.

The objective of the manual is therefore to inform and assist potential requesters in regard to the procedure to be followed and the criteria to be applied when a request is made for access to information held by Adams & Adams in terms of the Act.

The manual may be amended from time to time. As and when amendments are effected, the latest version of the manual will be made public.

A requester who requires further information in regard to the use of this manual and/or the procedure to be followed, may direct enquiries to:

Mr Stuart Boyd  
Tel: +27 12 432 6377  
Fax: +27 12 432 6599  
PO Box 1014  
PRETORIA 0001

### 1.4 **Definitions**

The following words or expressions will bear the following meanings in this manual:

“the Act”	shall mean the Promotion of Access to Information Act, no. 2 of 2000, together with all relevant regulations published thereunder;
“the / this manual”	shall mean this manual together with all annexures thereto as available at the offices of Adams & Adams, from time to time;
“Adams & Adams”	shall mean Adams & Adams, a law firm structured as a partnership and which renders legal services including advice and legal representation to individual and corporate clients;
“SAHRC”	shall mean the South African Human Rights Commission;
“Information Officer”	shall mean the General Manager of Adams & Adams, who has been appointed as the Information Officer of Adams & Adams and to whom requests for information in terms of the Act shall be addressed.

2. **CONTACT DETAILS (Section 51(1)(a) of the Act)**

Name of body:	Adams & Adams
Appointed Information Officer:	Mr Stuart Boyd
Physical address:	Lynnwood Bridge, 4 Davenry Street, Lynnwood Manor, Pretoria
Postal address:	PO Box 1014, PRETORIA 0001
Telephone:	+27 12 432 6377
Fax:	+27 12 362 6440
E-mail:	<a href="mailto:stuart-b@adamsadams.co.za">stuart-b@adamsadams.co.za</a>
Website:	<a href="http://www.adamsadams.com">www.adamsadams.com</a>

3. **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 has to be compiled by the South African Human Rights Commission (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 will be 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 12 484 0582 / 1360
E-mail:	<a href="mailto:PAIA@sahrc.org.za">PAIA@sahrc.org.za</a>
Website:	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>

4. **NOTICE(S) IN TERMS OF SECTION 52(2) OF THE ACT (Section 51(1)(c))**

In terms of section 52(1) of the Act, a private body may, on a voluntary basis, provide the Minister (of Justice) with information regarding categories of records that are automatically available without a person having to request access in terms of the Act. In terms of section 52(2), the Minister must, by notice in the Gazette, publish such information.

To date, no such notice has been published.

5. **INFORMATION AVAILABLE IN TERMS OF OTHER LEGISLATION (Section 51(1)(d) of the Act)**

Adams & Adams keeps information in accordance with the following legislation:

- 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
- Compensation for Occupational Injuries and Diseases Act no. 130 of 1993
- Designs Act no. 195 of 1993
- Employment Equity Act no. 55 of 1998
- Income Tax Act no. 58 of 1962
- Insolvency Act no. 24 of 1936
- Labour Relations Act no. 66 of 1978
- Medical Schemes Act no. 131 of 1998
- Occupational Health and Safety Act no. 85 of 1993
- Patents Act no. 57 of 1978
- Plant Breeders' Rights Act no. 15 of 1976
- Regional Services Councils Act no. 109 of 1985
- Registration of Copyright in Cinematograph Films Act no. 62 of 1977
- Road Accidents Fund Act no. 56 of 1996
- Skills Development Act no. 97 of 1998
- Skills Development Levies Act no. 9 of 1999
- Trade Marks Act no. 194 of 1993
- Unemployment Contribution Act no. 4 of 2002
- Unemployment Insurance Act no. 30 of 1966
- Value-Added Tax Act no. 89 of 1991.

6. **INFORMATION FORMING PART OF RECORDS IN TERMS OF THE ACT (Section 52(1)(e))**

Adams & Adams holds records with information falling in the following categories:

6.1 **Administration and management**

- Statutory records
- Administration and operational records
- Accommodation and facilities records
- Partnership agreements and protocols
- Minutes of meetings
- Risk, security and insurance records
- Commercial contracts
- Correspondence.

6.2 **Finance**

- Accounting records
- Salaries and wages records
- Creditors and debtors records
- Taxes and levies records
- Operational expenditure records
- Financial statements
- Assets inventories

### 6.3 **Human resources**

- Personnel records
- Employee relations
- Training and development
- Employment contracts
- Membership records
- Staff regulations and policies.

### 6.4 **Clients and correspondents**

- Client and correspondents database
- Client and correspondent professional services records
- Client and correspondent accounts
- Client files.

### 6.5 **Information technology**

- Infrastructure and systems
- Service delivery systems
- Business intelligence

## 7. **CRITERIA FOR GRANTING ACCESS TO INFORMATION**

- 7.1 It is recorded that any information, records, copies, documents or other data forming part of or pertaining to the records referred to in paragraphs 5 and 6 above will only be made available to a requester in response to a request prepared and lodged in the prescribed format and in accordance with the prescribed procedure (see paragraph 8 below).
- 7.2 It is further recorded that information, records, copies, documents or other data forming part of or pertaining to the aforesaid records will be made available to a requester in accordance with the provisions of the Act, and subject to the rules and principles entrenched in the Act in regard to the protection of the commercial and confidential information of Adams & Adams and third parties, and taking into account the other grounds for refusal of access as set out in the Act.
- 7.3 In particular it is recorded that-
- As a firm of attorneys, Adams & Adams is bound to adhere to the principles and rules regarding attorney-client confidentiality and privilege in respect of client information forming part of the aforesaid records, as contemplated in sections 65 and 67 of the Act.
  - As a firm of attorneys specialising in intellectual property law, Adams & Adams is bound to refuse access to information forming part of the aforesaid records, where such information relates to commercial information, trade secrets, scientific or technical information, research information, and other confidential information of clients or other third parties, as contemplated in sections 64 and 68 of the Act.
- 7.4 It is further specifically recorded that Adams & Adams may, in terms of sections 62-70 of the Act, legitimately refuse to grant access to the aforesaid records in respect of information falling within certain categories as contemplated in the Act, inter alia in the following circumstances:
- To protect personal information that the firm holds about a third person (who is a natural person), including a deceased person, from unreasonable disclosure;
  - To protect commercial information that the firm holds about a third party or the firm itself (for example trade secrets: financial, commercial, scientific or technical information that may harm the commercial or financial interests of the organisation or the third party);
  - If disclosure of the record would result in a breach of a duty of confidence owed to a third party in terms of an agreement;
  - If disclosure of the record would endanger the life or physical safety of an individual;

- If disclosure of the record would prejudice or impair the security of property or means of transport;
- If disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme;
- If disclosure of the record would prejudice or impair the protection of the safety of the public;
- If the record is privileged from production in legal proceedings, unless the legal privilege has been waived;
- If disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of the firm;
- If disclosure of the record would put the firm at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- If the record is a computer program; and
- If the record contains information about research being carried out or about to be carried out on behalf of a third party or the firm.

## 8. **REQUEST PROCEDURE**

- 8.1 The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.
- 8.2 The requester must complete the prescribed form enclosed here to as Appendix 1, and submit the form as well as payment of the request fee and a deposit, if applicable, to the Information Officer at the postal or physical address, fax number or electronic mail address as stated in paragraph 2 above.
- 8.3 The prescribed form must be filled in with enough particularity to enable the Information Officer to identify-
- The information and/or record or records requested;
  - the identity of the requester;
  - which form of access is required, if the request is granted;
  - the postal address or fax number of the requester.
- 8.4 The requester must state that he/she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.
- 8.5 The firm will process the request within 30 days, unless the requester has stated special reasons which would satisfy the Information officer that circumstances dictate that the above time periods not be complied with.
- 8.6 The requester will be informed whether access is granted or denied. If, in addition, the requester requires the reasons for the decision he/she must state the particulars so required.
- 8.7 If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer.

8.8 In an individual is unable to complete the prescribed form because of illiteracy or disability, such as person may make the request orally.

8.9 The requester must pay the prescribed fee, before any further processing can take place.

9. **REQUEST FEES**

Section 54 of the Act provides for a private body to require a request fee to be paid by a requester before processing a request. The Minister of Justice has determined, by way of notice in the Gazette in terms of section 54(8) of the Act, the fee that may be charged.

Information in regard to the fees payable is set out in Appendix 2.

10. **OTHER INFORMATION (Section 51(1)(f) of the Act)**

The Minister of Justice and Constitutional Development has to date not published any regulations in terms of this section.

11. **AVAILABILITY OF THIS MANUAL (Section 51(3) of the Act)**

11.1 This manual is available for inspection at the offices of Adams & Adams, free of charge.

11.2 Copies of the manual may be obtained, subject to the prescribed fees, at the offices of Adams & Adams.

11.3 The manual can also be accessed on the website of the SAHRC ([www.sahrc.org.za](http://www.sahrc.org.za)) and on the website of Adams & Adams ([www.adamsadams.co.za](http://www.adamsadams.co.za)) and will be published in the Government Gazette.

11.4 It should be noted that the manual accessible on the website of the SAHRC and in the Government Gazette, may not include the request form (Appendix 1) or fee structure (Appendix 2). The request forms and fee structure can be obtained on the SAHRC website ([www.sahrc.org.za](http://www.sahrc.org.za)) or the website of the Department of Justice and Constitutional Development ([www.doj.gov.za](http://www.doj.gov.za)) (under "regulations").