

Company Registration No. 2010/003684/21



**DARREN MARGO ATTORNEYS, INC. t/a MARGO ATTORNEYS**

**Manual Prepared in terms of Section 51 of  
The Promotion of Access to Information Act No. 2 of 2000  
(the "Act")**

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## **1. INTRODUCTION**

Margo® Attorneys is a specialist law firm structured as a limited liability company and duly registered with the Law Society of South Africa, with practice registration number 12871. We operate a complete intellectual property (IP) filing and maintenance service, managing portfolios of patents, trade marks and designs the world over.

As a natural extension of this, we also offer complete service offerings for matters of:

- litigation and the assertion of IP rights; and
- IP management & commercialisation, including the preparation of technology, legal and taxation opinions, and the drafting of commercial agreements.

This manual assists potential requesters as to the procedure to be followed when requesting access to information from Margo Attorneys in terms of the Act. This manual may be amended from time to time and any new versions of the manual will be made public.

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.

## **2. COMPANY CONTACT DETAILS (Section 51(1)(a))**

Name of Company:	Margo Attorneys
Head of Company:	Mr D.S. Margo
Physical Address:	1 <sup>st</sup> Floor, ACS House, 370 Rivonia Boulevard, Rivonia, Johannesburg, South Africa, 2128
Postal Address:	P.O. Box 167 Gallo Manor 2052, Docex 9 Rivonia
Telephone:	08600 MARGO   011 234 4840
Fax:	088 011 234 4937
E-mail:	<a href="mailto:info@margoip.co.za">info@margoip.co.za</a>
Website:	<a href="http://www.margoip.co.za">www.margoip.co.za</a>

### **3. THE ACT (Section 51(1)(b))**

- 3.1** 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, the public body must be acting in the public interest.
- 3.2** Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.
- 3.3** Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC. The contact details of the Commission are:

Postal Address: Private Bag 2700, Houghton, 2041  
Telephone Number: +27-11-877 3600  
Fax Number: +27-11-403 0625  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)

### **4. NOTICE(S) ITO 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 ITO OTHER LEGISLATION (Section 51(1)(d))**

Margo Attorneys 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. 97/1998 & Skills Development Levies Act no. 9/1999
- Trade Marks Act no. 194 of 1993
- Unemployment Contribution Act no. 4/2002 & Unemployment Insurance Act no. 30/1966
- Value-Added Tax Act no. 89 of 1991.

## 6. SCHEDULE OF RECORDS (Section 51(1)(e))

Margo Attorneys holds records with information falling in the following categories:

<u>Records</u>	<u>Subject</u>	<u>Availability</u>
Administration & Management	<ul style="list-style-type: none"><li>• Statutory Records</li><li>• Administration &amp; Operational Records</li><li>• Accommodation &amp; Facilities Records</li><li>• Memorandums of Incorporation &amp; Protocols</li><li>• Minutes of Meetings</li><li>• Risk, Security &amp; Insurance Records</li><li>• Commercial Contracts</li><li>• Correspondence</li></ul>	Request in terms of PAIA.
Financial	<ul style="list-style-type: none"><li>• Financial Statements</li><li>• Financial and Tax Records (Company &amp; Employees)</li><li>• Asset Register</li><li>• Management Accounts</li></ul>	Request in terms of PAIA.
Human Resources	<ul style="list-style-type: none"><li>• Personnel Records</li><li>• Employee Relations</li><li>• Training &amp; Development</li><li>• Employment Contracts</li><li>• Membership Records</li><li>• Staff Regulations &amp; Policies</li></ul>	Request in terms of PAIA.
Clients, Agents & Correspondents	<ul style="list-style-type: none"><li>• Client, Agent &amp; Correspondents Database</li><li>• Client, Agent &amp; Correspondent Professional Services Records</li><li>• Client, Agent &amp; Correspondent Accounts</li><li>• Client Files</li></ul>	Request in terms of PAIA.
Information Technology	<ul style="list-style-type: none"><li>• Infrastructure &amp; Systems</li><li>• Service Delivery Systems</li><li>• Business Intelligence</li></ul>	Request in terms of PAIA.

## **7. CRITERIA FOR GRANTING ACCESS TO RECORDS (Section 51(1)(e))**

- 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 Margo Attorneys 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, Margo Attorneys 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, Margo Attorneys 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 Margo Attorneys 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 (Section 51(1)(e))**

To facilitate the processing of your request, kindly:

- 8.1** Use the prescribed form enclosed here to as Annexure A (and also available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za)), and submit the form together with payment of the prescribed fee.
- 8.2** Address your request to the contact person specified in clause 2 above.
- 8.3** Provide sufficient details to enable the Information Officer to identify:
  - (a) The record(s) requested;
  - (b) The requester (and if an agent is lodging the request, proof of capacity);
  - (c) The form of access required;
  - (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written) the manner and particulars thereof;
  - (e) 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.

## **9. PRESCRIBED FEES (Section 51(1)(f))**

The following applies to requests for information (other than personal requests):

- 9.1** A requestor is required to pay a prescribed fee before a request will be processed;
- 9.2** If the preparation of the record requested requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted);
- 9.3** A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 9.4** Records may be withheld until the fees have been paid;
- 9.5** The fee structure in this regard is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

## **10. AVAILABILITY OF THIS MANUAL (Section 51(3))**

- 10.1** This manual is available for inspection at the offices of Margo Attorneys, free of charge.
- 10.2** Copies of the manual may be obtained, subject to the prescribed fees, at the offices of Margo Attorneys.
- 10.3** 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 Margo Attorneys ([www.margoip.co.za](http://www.margoip.co.za)) and will be published in the Government Gazette.
- 10.4** Records may be withheld until the fees have been paid.
- 10.5** 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 (Annexure A) or fee structure. 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 "resources/forms/PAIA").