

PAIA & POPIA MANUAL

Compiled in accordance with the requirements of the
Promotion of Access to Information Act No. 2 of 2000 (PAIA) &
Protection of Personal Information Act No 4 of 2013 (POPIA)

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1. INTRODUCTION

1.1 General

Van Zyl Kruger Inc. is a recognized and leading law firm that specializes in Conveyancing but also offer a full complement of corporate and commercial legal services in core practice areas: Litigation, Labour law, Trusts and Estates and Dispute Resolution.

Van Zyl Kruger is also a Private Body for the purposes of PAIA and POPI and accordingly has produced this Manual in compliance of both POPI and PAIA.

1.2 Purpose of the Manual

This Manual has been prepared in accordance with section 51 of the Promotion of Access to Information Act No.2 of 2000 ("PAIA") and updated in light of the Protection of Personal Information Act 4 of 2013 ("POPIA")

The purpose of this Manual is to foster a culture of transparency and accountability within the Legal Profession Industry of which Van Zyl Kruger form a part.

Furthermore, its purpose is to give effect to the constitutional right of access to information, where that information is required for the exercise or protection of a right.

This Manual is intended to give a description of the records held by and on behalf of VZK, to outline the procedure to be followed and the fees payable when requesting access to any of these records in the exercise of the right of access to information, with a view of enabling requesters to obtain records which they are entitled to in a quick, easy and accessible manner.

It is important to note that PAIA recognizes certain limitations to the right of access to information, including, but not exclusively, limitations aimed at the reasonable protection of privacy, commercial confidentiality, and effective, efficient and good governance, and in a manner which balances that right in the Constitution.

POPIA was enacted in November 2013, to promote the protection of personal information processed by public and private bodies. POPIA amended certain provisions of PAIA, balancing the need for access to information against the need to ensure the protection of personal information.

This Manual detail the procedure to be followed by a Requestor and the manner in which a Request for Access shall be facilitated.

The definitions provided in this Manual are solely for the purpose of this Manual and are not to be taken as applicable to the Act.

2. DEFINITIONS AND INTERPRETATION

The following words or expressions will bear the following meanings in this Manual -

” **VZK**” means Van Zyl Kruger Incorporated (Registration number: 2015/174073/21), a professional company which renders legal services including legal advice and legal representation to individual client, businesses and organizations;

“**Clients**” means a natural or juristic person who or which receives services from VZK;

“**Correspondence**” means written and electronic communication exchanged between two or more parties;

“**PAIA**” means the Promotion of Access to Information Act 2 of 2000;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Information Officer**” means the duly authorised Head of the body (as defined in section 1 of PAIA) as described in this Manual;

“**Manual**” means this manual, together with all annexures thereto as amended and made available at the Office of Van Zyl Kruger Inc. from time to time;

“**POPIA**” means the Protection of Personal Information Act 4 of 2013, as amended;

“**Employee**” refers to any person who works for or provides services to or on behalf of VZK, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of VZK, which includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff as well as contract workers.

“**Private Body**” has the meaning ascribed thereto in sections 1 of both PAIA;

“**Record**” has the meaning ascribed thereto in section 1 of PAIA and includes Personal Information;

“**Requestor**” has the meaning ascribed thereto in section 1 of PAIA;

“**Request for Access**” has the meaning ascribed thereto in section 1 of PAIA; and

“**SAHRC**” means the South African Human Rights Commission.

3. VAN ZYL KRUGER CONTACT DETAILS

3.1 Contact details of the Information Officer of VZK:

a) Name of Information Officer

Eberhard Schoch Kruger

- b) **E-mail address:**
ekruger@vzk.co.za
- c) **Telephone number:**
+27 (0)21 180 4550

3.2 General contact details of VZK :

- d) **Postal address:**
P.O. Box 419
Tyger Valley
7536
- e) **Physical address:**
Suite A4-2, Avanti Building
South Block, cnr Carl Cronje Drive & Bill Bezuidenhout Ave
Bellville
- f) **Telephone number:**
+27 (0) 180 4550
- g) **Facsimile number:**
+27 (0)21 180 4540
- h) **Internet site address:**
www.vzk.co.za

4. HOW TO USE THE ACT TO ACCESS INFORMATION

The SAHRC has published a guide pursuant to section 10 of PAIA (the **SAHRC Guide**). The SAHRC Guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA.

The Requests in terms of the Act shall be made in accordance with the prescribed procedures, and at the prescribed fees.

The SAHRC Guide is available on the SAHRC website (www.sahrc.org.za). Any enquiries regarding the SAHRC Guide should be directed to the SAHRC PAIA unit.

4.1 Contact details of the SAHRC PAIA unit:

- a) **Postal address:**
Private Bag X2700 HOUGHTON 2041

- b) **Telephone number:**
(+27) (11) 877 3803
- c) **Facsimile number:**
(+27) (11) 403 0625
- d) **Website address:**
<http://www.sahrc.org.za>
- e) **E-mail address:**
section51.paia@sahrc.org.za
paia@sahrc.org.za

5. PUBLICATION AND AVAILABILITY OF CERTAIN RECORDS IN TERMS OF PAIA

5.1 Schedule of Records

The Schedule of Records as contained in Annexure 3 of this Manual detail the Records that are held and/or processed by VZK for the purposes of PAIA. Such Records are categorised as set out in Annexure 3 which details whether access to such Records is automatically available or whether the said Record must be accessed in accordance with PAIA. Access to such Records may not be granted if they are subject to the grounds of refusal which are specified in paragraph 6 below.

5.2 List of applicable legislation

The list of legislation in terms of which VZK holds/Processes Records and that is applicable to VZK is set out in 2. (List is not an exhaustive list)

6. REQUESTING PROCEDURES

- 6.1 Records, whether specifically listed in this Manual or not, will only be made available subject to the provisions of the Act.
- 6.2 A Requester must comply with all the procedural requirements as contained in section 53 of PAIA relating to a Request for Access to a Record.
- 6.3 A Requester must complete the prescribed Request for Access form and submit the completed Request for Access form as well as payment of a request fee (if applicable) and a deposit (if applicable), to the Information Officer at the postal or physical address, facsimile number or electronic mail address stated in paragraph 3.1 or 3.2 above.

- 6.4 The Request for Access form must be completed with enough particularity to at least enable the Information Officer to identify the following:
- a) The Record/s requested;
 - b) The identity of the Requester;
 - c) The form of access that is required, if the request is granted;
 - d) The postal address or fax number of the Requester; and
 - e) The right that the Requester is seeking to protect and an explanation as to why the Record is necessary to exercise or protect such a right.
- 6.5 VZK will process the Request for Access within 30 days of receipt of the Request for Access, unless the Request for Access is of such a nature that an extension of the prescribed time limit is necessitated in accordance with section 57 of PAIA.
- 6.6 If, in addition to a written reply from the Information Officer, the Requester wishes to be informed of the decision on the Request for Access in any other manner, the Requestor must state the manner and the particulars so required.
- 6.7 If a Request for Access is made on behalf of another person, the Requester must submit proof of the capacity in which the Requester is making the request to the reasonable satisfaction of the Information Officer.

7. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS IN TERMS OF PAIA

The following are the grounds on which VZK may and in certain instances must refuse access to records on the grounds set out in Chapter 4 of PAIA :

- 7.1 Mandatory protection of the privacy of a third party who is a natural person, including a deceased person, where such disclosure of Personal Information would be unreasonable.
- 7.2 Mandatory protection of the commercial information of a third party, if the Records contain:
- a) Trade secrets of that third party.
 - b) Financial, commercial, scientific or technical information of the third party, the disclosure of which could likely cause harm to the financial or commercial interests of that third party; and/or

- c) Information disclosed in confidence by a third party to VZK, the disclosure of which could put that third party at a disadvantage in contractual or other negotiations or prejudice the third party in commercial competition;
- 7.3 Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
 - 7.4 Mandatory protection of the safety of individuals and the protection of property;
 - 7.5 Mandatory protection of Records that would be regarded as privileged in legal proceedings;
 - 7.6 Protection of the commercial information of VZK, which may include:
 - a) Trade secrets;
 - b) Financial/commercial, scientific or technical information, the disclosure of which could likely cause harm to the financial or commercial interests of VZK;
 - c) Information which, if disclosed, could put VZK at a disadvantage in contractual or other negotiations or prejudice VZK in commercial competition; and/or
 - d) Computer programs which are owned by VZK and which are protected by copyright and intellectual property laws;
 - 7.7 Research information of VZK or a third party, if such disclosure would place the research or the researcher at a serious disadvantage; and
 - 7.8 Requests for Records that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources.

8. REMEDIES AVAILABLE TO THE REQUESTER UPON REFUSAL OF A REQUEST FOR ACCESS IN TERMS OF PAIA

8.1 Internal remedies

VZK does not have internal appeal procedures. As such, the decision made by the Information Officer is final, and Requesters will have to exercise such external remedies at their disposal if the Request for Access is refused.

8.2 External remedies

In accordance with sections 56(3) (c) and 78 of PAIA, a Requestor may apply to a court for relief within 180 days of notification of the decision for appropriate relief.

9. FEES

9.1 **The Act provides for two types of fees, namely:**

- a) A request fee, payable by a Requestor, other than a Personal Requestor; and
- b) An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postage costs.

9.2 When the Request for Access is received by the Information Officer, the Information Officer shall by notice require the Requester, other than a Personal Requester, to pay the prescribed request fee (if any), before further processing of the Request for Access.

9.3 If the search for a Record requires more than the prescribed hours for this purpose, the Information Officer shall notify the Requester to pay as a deposit, the prescribed portion of the access fee (being not more than one third) which would be payable if the Request for Access is granted.

9.4 The Information Officer shall withhold a Record until the Requester has paid the fees set out in Annexure 1.

9.5 A Requester whose Request for Access to a Record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the Record for disclosure including making arrangements to make it available in a requested form provided for in section 29(2) (a) and (b)(i) and (ii) of PAIA.

9.6 If a deposit has been paid in respect of a Request for Access which is refused, the Information Officer must repay the deposit to the Requester.

10. INFORMATION OR RECORDS NOT FOUND

10.1 If all reasonable steps have been taken to find a record, and such a record cannot be found or if the records do not exist, then the Director of the company shall notify the requester, by way of an affidavit or affirmation, that it is not possible to give access to the requested record.

10.2. The affidavit or affirmation shall provide a full account of all the steps taken to find the record or to determine the existence thereof, including details of all communications by the Director of the company with every person who conducted the search.

10.3 If the record in question should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form unless access is refused by the Director of the company.

- 10.4 The attention of the requester is drawn to the provisions of Chapter 4 of Part 3 of the Act in terms of which the company may refuse, on certain specified grounds, to provide information to a requester.

11. DECISION TO GRANT ACCESS TO RECORDS

- 11.1 VZK shall decide whether to grant or decline the Request for Access within 30 days of receipt of the Request for Access and must give notice to the Requestor with reasons (if required) to that effect.
- 11.2 The period referred to in paragraph 11.1 above may be extended for a further period of not more than 30 days if the Request for Access is for a large number of Records or the Request for Access requires a search for Records held at another office of VZK and the Records cannot reasonably be obtained within the original 30day period.
- 11.3 VZK will notify the Requester in writing should an extension of time as contemplated in paragraph 11.2 above be required.

12. PROCESSING DETAILS

- 12.1 In terms of POPIA, data must be processed for a specified purpose. The purpose for which data are processed by VZK will depend on the nature of the data and the particular data subject. This purpose is ordinarily disclosed, explicitly or implicitly at the time the data are collected. The list of processing purposes is non – exhaustive

13. RECIPIENTS TO WHOM PERSONAL INFORMATION WILL BE SUPPLIED

Depending on the nature of the data, VZK may supply information or records to the following categories of recipients:

- 13.1 Statutory oversight bodies, regulators or judicial commissions of enquiry making a request for data (i.e. the Information Regulator in terms of POPIA);
- 13.2 Any court, administrative or judicial forum, arbitration, statutory commission, or ombudsman making a request for data or discovery in terms of the applicable rules (i.e. the Competition Commission in terms of the Competition Act 89 of 1998);
- 13.3 South African Revenue Services, or another similar authority;
- 13.4 A contracted third party who requires this information to provide services;
- 13.5 Third parties with whom Company have a contractual relationship for the retention of data (for example, a third-party hosting services);
- 13.6 Research/ academic institutions;
- 13.7 Auditing and accounting bodies (internal and external);
- 13.8 Anyone making a successful application for access in terms of PAIA.

14. TRANSBORDER FLOWS OF PERSONAL INFORMATION

VZK may transfer personal information to a third party who is in a foreign country in order to administer certain services but may only do so subject to the provisions of POPIA. Thus, internal cross-border transfers, as well as external cross-border transfers of information are envisaged, subject to the provisions of POPIA

15. SECURITY MEASURES

VZK takes extensive information security measures to ensure the confidentiality, integrity and availability of personal information in VZK possession. VZK takes appropriate technical and organizational measures designed to ensure that personal data remain confidential and secure against unauthorized or unlawful processing and against accidental loss, destruction or damage.

16. AVAILABILITY OF THE MANUAL

- 16.1 This Manual is available for public inspection at the physical address of VZK free of charge, and on the website of VZK, free of charge; and on request by any person (along with payment of a prescribe fee)
- 16.2 This Manual is available from the designated Information Officer, whose detail appear paragraph 3.1.
- 16.3 The responsibility for administration of, and compliance with PAIA and POPIA have been delegated to the Information Officer.
- 16.4 Requests pursuant to the provisions of PAIA and/ or POPIA should be directed to the Information Officer

17. PRISCRIBED FORMS AND FEE STRUCTURE

(Prescribed forms and fee structure in respect of private bodies s53 and 54 of the Act)

The forms and fee structure prescribed under the Act are available from the Government Gazette, or at the website of the Department of Justice and Constitutional Development (www.doj.gov.za), under the “regulations” section as well as the SAHRC website (www.sahrc.org.za)

ANNEXURE 1

APPLICABLE FEES IN RESPECT OF PRIVATE BODIES IN RELATION TO PAIA

FEES IN RESPECT OF PRIVATE BODIES

1. The fee for a copy of the manual as contemplated in regulation 9 (2) (c) is R1,10 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 11 (1) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	R1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0,75
(c) For a copy in a computer-readable form on—	
i. stiffy disc	R7,50
ii. compact disc	R70,00
(d) i. For a transcription of visual images, for an A4- size page or part thereof	R40,00
ii. For a copy of visual images	R60,00
(e) i. For a transcription of an audio record, for an A4- size page or part thereof	R20,00
ii. For a copy of an audio record	R30,00

3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11 (2) is R50,00.
4. The access fees payable by a requester referred to in regulation 11 (3) are as follows:

	R
(1) (a) For every photocopy of an A4-size page or part thereof	R1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form	R0,75

(c)	For a copy in a computer-readable form on—	
i.	stiffy disc	R7,50
ii.	compact disc	R70,00
(d)		
i.	For a transcription of visual images, for an A4- size page or part thereof	R40,00
ii.	For a copy of visual images	R60,00
(e)		
i.	For a transcription of an audio record, for an A4- size page or part thereof	R20,00
ii.	For a copy of an audio record	R30,00
(f)	To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.	
(2)	For purposes of section 54 (2) of the Act, the following applies:	
(a)	Six hours as the hours to be exceeded before a deposit is payable; and	
(b)	one third of the access fee is payable as a deposit by the requester.	
(3)	The actual postage is payable when a copy of a record must be posted to a requester.	

ANNEXURE 2

LIST OF APPLICABLE LEGISLATION

Records are kept in accordance with legislation applicable to VZK which includes but is not limited to the following -

1. Administration of Estates Act, No.66 of 1965;
2. Attorneys Act, No. 53 of 1979;
3. Basic Conditions of Employment Act, No. 75 of 1997;
4. Companies Act, No. 61 of 1973 (repealed, save for chapter 14);
5. Companies Act, No. 71 of 2008;
6. Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993;
7. Competition Act, No. 89 of 1998;
8. Consumer Protection Act, No. 68 of 2008;
9. Copyright Act, No. 98 of 1978;
10. Currency and Exchanges Act, No. 9 of 1933;
11. Credit Agreements Act, No. 75 of 1980 (repealed);
12. Debt Collectors Act, No. 114 of 1998; 5
13. Electronic Communications and Transactions Act, No. 25 of 2002;
14. Employment Equity Act, No. 55 of 1998;
15. Financial Intelligence Centre Act, No. 38 of 2001;
16. Income Tax Act, No. 58 of 1962 (Section 75) (repealed);
17. Labour Relations Act, No. 66 of 1995;
18. Medical Schemes Act, No. 131 of 1998;
19. National Credit Act, No. 34 of 2005;
20. Occupational Health and Safety Act, No. 85 of 1993;
21. Pension Funds Act, No. 24 of 1956;
22. Protection of Personal Information Act, No.4 of 2013;
23. Regulation of Interception of Communications and Provision of Communication Related Information Act, No. 70 of 2002;
24. Skills Development Act, No. 97 of 1998;
25. Skills Development Levies Act, No. 9 of 1999;
26. Tax on Retirement Funds Act; No. 38 of 1996;
27. Trade Marks Act, No. 194 of 1993;
28. Trust Property Control Act, No. 57 of 1988;
29. Unemployment Insurance Act, No. 63 of 2001;
30. Unemployment Insurance Contributions Act, No. 4 of 2002;
31. Value Added Tax Act, No. 89 of 1991.

Records kept in terms of the above legislation may, in certain instances (and insofar as the information contained therein is of a public nature) be available for inspection without a person having to request access thereto in terms of the Act.

ANNEXURE 3

SCHEDULE OF RECORDS OF VZK IN RELATION TO PAIA

This section of the manual sets out the categories and descriptions of records held by VZK. The inclusion of any category of records should not be taken to mean that records falling within that category will be made available under the Act. In particular, certain grounds of refusal as set out in the Act may be applicable to a request for such records

Category	Subject of Record	Availability
Human Recourses	Personnel records of each employee of VZK	On request in terms of PAIA
	Records provided by a third party relating to Personnel	On request in terms of PAIA
	Conditions of employment and other Personnel-related contractual and quasi-legal records	On request in terms of PAIA
	Disciplinary Records	On request in terms of PAIA
	Correspondence relating to Personnel	On request in terms of PAIA
	Training schedules and material	On request in terms of PAIA
	Employment equity plan of VZK	On request in terms of PAIA
	Employee tax information	On request in terms of PAIA
	Files relating to clients matters	On request in terms of PAIA
	Payroll records	On request in terms of PAIA

	Internal policies and Procedures	On request in terms of PAIA
Clients	Records provided by a Customer to a third party acting for, or on behalf of VZK	On request in terms of PAIA
	Records provided by a third party to VZK	On request in terms of PAIA
	Clients' documentation in terms of Financial Intelligence Centre Act No.38 of 2001	On request in terms of PAIA
	Correspondence with clients	On request in terms of PAIA
	Records regarding legal proceedings involving clients of VZK	On request in terms of PAIA
	Research conducted on behalf of clients of VZK	On request in terms of PAIA
	Licenses relating to intellectual property rights	On request in terms of PAIA
	Records relating to domain names	On request in terms of PAIA
	Other information relating to, or held on behalf of VZK clients	On request in terms of PAIA
Financial Record	Annual financial statements of VZK	On request in terms of PAIA
	Tax Returns of VZK	On request in terms of PAIA
	Accounting records of VZK	On request in terms of PAIA
	Banking Records of VZK	On request in terms of PAIA
	Audit reports conducted for VZK	On request in terms of PAIA
	Invoices in respect of creditors and debtors of VZK	On request in terms of PAIA
	Fidelity Fund certificates	On request in terms of PAIA
	Bank facilities and account details	On request in terms of PAIA

Company Record	Documents of incorporation	On request in terms of PAIA
	Memorandum of Articles of Association	On request in terms of PAIA
	Share register and other statutory registers	On request in terms of PAIA
	List of employees	On request in terms of PAIA
	Contracts of employment with employees of VZK	On request in terms of PAIA
Intellectual	Trade – marks, copyrights and designs held by VZK	On request in terms of PAIA
		On request in terms of PAIA
Property	Software licences	On request in terms of PAIA
		On request in terms of PAIA
Immovable and Movable Property	Agreement for the lease of immovable property by VZK	On request in terms of PAIA
	Agreement for the lease or sale of movable property by VZK	On request in terms of PAIA
	Records regarding insurance in respect of movable property	On request in terms of PAIA
	Asset register	On request in terms of PAIA
Information Technology	Records regarding computer systems and programmes held by VZK	On request in terms of PAIA
	Precedent database	On request in terms of PAIA
Website	VZK website address is www.vzk.co.za and is accessible to anyone who has access to the internet.	On request in terms of PAIA
		On request in terms of PAIA
Miscellaneous	Security agreements, guarantees and indemnities	On request in terms of PAIA
	Marketing agreements	On request in terms of PAIA
	Internal Correspondence	On request in terms of PAIA
	Suretyship agreements	On request in terms of PAIA
	Correspondence with the Law Society	On request in terms of PAIA

	Agreements with suppliers of VZK	On request in terms of PAIA
	Correspondence of VZK, including internal and external memoranda	On request in terms of PAIA

RECORDS THAT ARE AUTOMATICALLY AVAILABLE TO EITHER EMPLOYEES ONLY OR THE GENERAL PUBLIC AND EMPLOYEES

The following records are *automatically available* to *all employees* and need not be requested in accordance with the procedure outlined in paragraph 8 -

1. Personnel records are available to the employee whose file it is
2. Records of disciplinary hearings and related matters are available to the employee concerned
3. The Company's policies and procedures manual
4. The Company's document format manual.

The following records are *automatically available* to the *general public* and all employees and need not be requested in accordance with the procedure outlined in paragraph 8 –

1. The Company's employment equity plan
2. The Company's skills development plan

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 PAIA.

Version 1

Last updated: 01 May 2021