



CULLINAN & ASSOCIATES  
Environmental and green business attorneys

## **ACCESS TO INFORMATION MANUAL**

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

**FOR**

**CULLINAN & ASSOCIATES INCORPORATED**

(Registration number: 2001/001024/21)

Date of Issue: 27 June 2021



## 1. INTRODUCTION

- 1.1. This Manual has been prepared in accordance with section 51 of the Promotion of Access to Information Act No. 2 of 2000 ("PAIA") and section 17 of Protection of Personal Information Act 4 of 2013 ("POPIA"). It aims to assist potential Requesters in requesting access to information (documents or records) from Cullinan & Associates as contemplated in PAIA.
- 1.2. The Manual may be amended from time to time and as soon as any amendments have been effected, the latest version of the Manual will be published and distributed in accordance with PAIA.
- 1.3. A Requester is invited to contact the Information Officer should they require any assistance in respect of the use or content of this Manual.
- 1.4. The definitions provided in this Manual are solely for the purpose of this Manual and are not to be taken as applicable to PAIA.

## 2. DEFINITIONS

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

- 2.1. "**Cullinan & Associates**" means Cullinan & Associates Incorporated (registration number 2001/001024/21), a professional company which renders legal services including legal advice and legal representation to individual clients, businesses and organisations and includes the entities associated with it as listed in paragraph 3;
- 2.2. "**Client**" means a natural or juristic person who or which receives services from Cullinan & Associates;
- 2.3. "**Correspondence**" means written and electronic communication exchanged between two or more parties;
- 2.4. "**Employee**" means any person who works for, or provides services to, or on behalf of Cullinan & Associates, and receives or is entitled to receive remuneration;
- 2.5. "**Information Officer**" means the designated information officer/s or the head of the body, as described in this Manual;
- 2.6. "**Manual**" means this manual, together with all annexures thereto as amended and made available at the offices of Cullinan & Associates from time to time;
- 2.7. "**PAIA**" means the Promotion of Access to Information Act No. 2 of 2000, together with any regulations made under it;
- 2.8. "**POPIA**" means Protection of Personal Information Act 4 of 2013;

- 2.9. "Requester" means any person or entity requesting access to a record that is under the control of Cullinan & Associates; and
- 2.10. "SAHRC" means the South African Human Rights Commission.

### 3. SCOPE OF THE MANUAL

This Manual has been prepared in respect of Cullinan & Associates, a professional services company incorporated in South Africa.

### 4. HOW TO USE PAIA TO ACCESS INFORMATION

*(Information provided in terms of section 51(1)(b) of PAIA)*

- 4.1. PAIA 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 in terms of PAIA, the public body must be acting in the public interest.
- 4.2. Requests in terms of PAIA shall be made in accordance with the prescribed procedures, and at the prescribed fees.
- 4.3. A guide on how to use PAIA has been compiled by the SAHRC in terms of section 10 of PAIA and is available on the SAHRC website ([www.sahrc.org.za](http://www.sahrc.org.za)). Any queries should be directed to -

The South African Human Rights Commission

PAIA Unit

Research and Documentation Department

**Postal Address:** Private Bag 2700 Houghton 2041 South Africa

**T** +27 (0)11 877 3600

**F** +27 (0)11 403 0625

**E** [paia@sahrc.org.za](mailto:paia@sahrc.org.za)

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

### 5. OVERVIEW OF CULLINAN & ASSOCIATES

- 5.1. Cullinan & Associates is an environmental and green business law firm. We offer a wide variety of legal services to our clients in environmental and green business law.

#### **Cullinan & Associates' contact details**

*(Information required under section 51(1)(a) of PAIA)*

**Name of Body**

Cullinan & Associates Incorporated

<b>Physical &amp; Postal</b>	18A Ascot Road, Kenilworth, Cape Town, 7708
<b>Head of Body</b>	Cormac Cullinan (Director) T +27 (0)21 671 7002 F +27 (0)21 671 7003 E info@greencounsel.co.za
<b>Information Officer</b>	<b>Name:</b> Hercules Du Preez Wessels T +27 (0)21 671 7002 E info@greencounsel.co.za

## 5.2. Information freely available from Cullinan & Associates

*(Copy of notice, if any, required under section 51(1)(c) of PAIA)*

No notice has been published in terms of section 52. However, certain information is freely available at Cullinan & Associates' offices such as the special publications and brochures and Cullinan & Associates' annual report.

## 5.3. Information kept by Cullinan & Associates in accordance with other legislation

*(Information required under section 51(1)(d) of PAIA)*

Records are kept in accordance with legislation applicable to Cullinan & Associates, which includes but is not limited to, the following -

- Administration of Estates Act, No.66 of 1965;
- Basic Conditions of Employment Act, No. 75 of 1997;
- Companies Act, No. 61 of 1973 (*repealed, save for chapter 14*);
- Companies Act, No. 71 of 2008;
- Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993;
- Consumer Protection Act, No. 68 of 2008;
- Copyright Act, No. 98 of 1978;
- Currency and Exchanges Act, No. 9 of 1933;
- Credit Agreements Act, No. 75 of 1980 (*repealed*);
- Debt Collectors Act, No. 114 of 1998; Electronic Communications and Transactions Act, No. 25 of 2002;
- Employment Equity Act, No. 55 of 1998;
- Financial Intelligence Centre Act, No. 38 of 2001;
- Income Tax Act, No. 58 of 1962 (Section 75) (*repealed*);

- Legal Practice Act 28 of 2014;
- Labour Relations Act, No. 66 of 1995;
- Medical Schemes Act, No. 131 of 1998;
- National Credit Act, No. 34 of 2005;
- Occupational Health and Safety Act, No. 85 of 1993;
- Pension Funds Act, No. 24 of 1956;
- Protection of Personal Information Act, No.4 of 2013;
- Regulation of Interception of Communications and Provision of Communication- Related Information Act, No. 70 of 2002;
- Stamp Duties Act, No. 77 of 1968 (repealed);
- Skills Development Act, No. 97 of 1998;
- Skills Development Levies Act, No. 9 of 1999;
- Tax on Retirement Funds Act, No. 38 of 1996;
- Trade Marks Act, No. 194 of 1993;
- Trust Property Control Act, No. 57 of 1988;
- Unemployment Insurance Act, No. 63 of 2001;
- Unemployment Insurance Contributions Act, No. 4 of 2002;
- 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 PAIA.

#### **5.4. Information held by Cullinan & Associates in terms of PAIA**

*(Information required under section 51(1)(e) of PAIA)*

#### **NOTE**

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

<b>CATEGORIES OF RECORD</b>	<b>DESCRIPTION OF RECORD</b>
<b>Financial Records</b>	Annual financial statements of Cullinan & Associates Tax returns of Cullinan & Associates Accounting records of Cullinan & Associates

CATEGORIES OF RECORD	DESCRIPTION OF RECORD
	Banking records of Cullinan & Associates Audit reports conducted for Cullinan & Associates Invoices in respect of creditors and debtors of Cullinan & Associates Fidelity Fund certificates Bank facilities and account details
<b>Company Records</b>	Documents of incorporation Memorandum and Articles of Association Share register and other statutory registers List of employees Contracts of employment with employees of Cullinan & Associates Minutes of Board of Directors meetings Records relating to appointment of directors/ auditors/ secretary/ public officer
<b>Human Resources and Income Tax Records</b>	Agreements with clients of Cullinan & Associates Compensation or redundancy payments Documents issued to employees for income tax purposes Disciplinary records Employee tax information Employment Contracts Employment Equity Plan of Cullinan & Associates Files relating to client matters Internal policies and procedures Leave Records PAYE records Payroll records Pension and provident fund records Personnel records of each employee of Cullinan & Associates Records relating to conditions of employment Records of payment made to SARS on behalf of employees Salary records SETA records Skills Development Levies Training records and manuals UID

CATEGORIES OF RECORD	DESCRIPTION OF RECORD
	VAT records Workmen's Compensation
<b>Cullinan &amp; Associates Clients</b>	Client documentation in terms of Financial Intelligence Centre Act No. 38 of 2001 Correspondence with clients Correspondence with third parties Records regarding legal proceedings involving clients Research conducted on behalf of clients of Cullinan & Associates Other information relating to, or held on behalf of Cullinan & Associates clients
<b>Intellectual Property</b>	Licences relating to intellectual property rights Records relating to domain names Software licences Trade-marks, copyrights and designs held by Cullinan & Associates
<b>Immovable and Movable Property</b>	Agreements for the lease of immovable property by Cullinan & Associates Records regarding insurance in respect of movable property Records regarding insurance in respect of immovable property
<b>Information Technology</b>	Asset register Records regarding computer systems and programmes held by Cullinan & Associates Precedent database
<b>Library Information</b>	Electronic and hard copy publications of books, periodicals, circulars, and legislation
<b>Website</b>	Cullinan & Associates' website address is <a href="https://cullinans.co.za/">https://cullinans.co.za/</a> and is accessible to anyone who has access to the Internet. The website contains various categories of information relating to the firm, including areas of expertise; legal services; specialist fields; editorials; literature; careers; directors' résumés and contact details.
<b>Miscellaneous</b>	Security agreements, guarantees and indemnities Internal correspondence Agreements with suppliers of Cullinan & Associates Correspondence of Cullinan & Associates, including internal and external memoranda

## **5.5. Request Procedures**

Records, whether specifically listed in this Manual or not, will only be made available subject to the provisions of PAIA.

### **5.5.1. Form of request**

The Requester must use the prescribed form to make the request for access to a record. This must be made to the Information Officer at the address, fax number or electronic mail address of the body concerned [See s 53(1) of PAIA].

The Requester must provide sufficient detail on the request form to enable the Information Officer to identify the record and the Requester. The Requester should also indicate which form of access is required and specify a postal address, fax number in the Republic or email address. The Requester should also indicate if, in addition to a written reply, any other manner is to be used to inform the Requester and state the necessary particulars to be so informed [See s 53(2)(a) and (b) and (c) and (e) of PAIA].

The Requester must identify the right that is sought to be exercised or protected and provide an explanation of why the requested record is required for the exercise or protection of that right [See s 53(2)(d) of PAIA].

If a request 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 satisfaction of the head of the private body [See s 53(2)(f) of PAIA].

### **5.5.2. 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 requesting access to a record containing personal information about him/her or itself, must pay the required request fee.

The Information Officer must by notice require the Requester (other than a personal Requester) to pay the prescribed request fee (if any) before further processing the request [See s 54(1) of PAIA].

The fee that the Requester must pay to a private body is R50. The Requester may lodge an application to the court against the tender or payment of the request fee [See s 54(3)(b) of PAIA].

If access to a record/s is granted by Cullinan & Associates, the Requester may be required

to pay an access fee for the search for and preparation of the records and for reproduction of the record/s.

The access fees which apply are set out below (Part III of Annexure A of the Regulations to PAIA). Cullinan & Associates can without a record/s until such access fees have been paid.

	<b>Reproduction</b>	<b>Fee (Rand)</b>
1.	Photocopy of an A4-size page or part thereof	R1.10 per page
2.	Printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	R0.75 per page
3.	A copy of, in a computer readable form on-Memory stick	R79.00
4.	Transcription of visual images on an A4-size page or part thereof	R40.00 per page
5.	Copy of visual images	R60.00
6.	Transcription of an audio record on an A4-size page or part thereof	R20.00
7.	Copy of an audio record	R30.00

### **5.5.3. Decision on request**

After the Information Officer has made a decision on the request, the Requester will be notified using the required form.

If the request is granted then a further access fee must be paid for reproduction, for search and preparation, and for any time that has exceeded the prescribed hours to search for and prepare the record for disclosure [See s 54(6) of PAIA].

### **5.5.4. Grounds of refusal of access**

In terms of Part 3, Chapter 4 of PAIA Cullinan & Associates may and in certain instances

must refuse access to records on the grounds set out in PAIA. The grounds include:

- professional privilege;
- that the record constitutes privileged information for the purposes of legal proceedings;
- that it is necessary to protect the commercial information or the confidential information of a third party;
- that it is necessary to protect the commercial information of or of Cullinan & Associates;
- that it is necessary to protect the safety of individuals or property;
- that it is necessary to protect the research information of a third party or of Cullinan & Associates; and
- that granting access would result in the unreasonable disclosure of personal information about a third party.

## **6. RECORDS OR INFORMATION NOT FOUND**

6.1. If, after all reasonable steps to locate a record have been taken, and no record is found, then the Information Officer will notify the Requester, by way of an affirmation or affidavit that access to the requested and titled document cannot be provided. The affirmation or affidavit will include detailed account of the steps taken to try locate the record.

6.2. Should a record be found at a later stage, the Information Officer shall provide the Requester access to such record, unless access to the record is refused on the grounds permitted by PAIA (Part 3, Chapter 4).

## **7. OTHER INFORMATION HELD BY CULLINAN & ASSOCIATES AS PRESCRIBED**

*(Other information as may be prescribed under section 51(1)(f))*

The Minister of Justice and Constitutional Development has to date not made any regulations regarding disclosure of other information.

## **8. AVAILABILITY OF THE MANUAL**

*(Availability of Manual under section 51(3))*

8.1. This Manual is available for inspection by the general public upon request, during office hours and free of charge, at the offices of Cullinan & Associates. Copies of the Manual may be made, subject to the prescribed fees.

8.2. Copies may also be requested from the South African Human Rights Commission.

8.3. The Manual is also posted on Cullinan & Associates' website referred to above.

9. **PRESCRIBED FORMS AND FEE STRUCTURE**

*(Prescribed forms and fee structure in respect of private bodies s 53 and 54 of PAIA)*

The forms and fee structure prescribed under PAIA are available from the Government Gazette, or at the website of the Department of Justice and Constitutional Development ([www.doj.gov.za](http://www.doj.gov.za)), under the 'regulations' section as well as the SAHRC website ([www.sahrc.org.za](http://www.sahrc.org.za)).

10. **SECTION 17 OF POPIA**

In accordance with section 17 of POPIA, Cullinan & Associates, as a responsible party, shall maintain documentation of all processing operations under its responsibility as referred to in section 51 of the Promotion of Access to Information Act.