

Manual prepared in accordance with Section 51 of The Promotion of Access to Information Act, 2000 (“The Act”) for Maluleke Inc T/A Maluks Attorneys.

TABLE OF CONTENT

1	INTRODUCTION	2
2	DEFINITIONS	2
3	PURPOSE OF THE MANUAL.....	2
4	CONTACT DETAILS.....	3
5	SECTION 10 GUIDE ON HOW TO USE THE ACT.....	3
6	RECORDS AVAILABLE IN TERMS OF LEGISLATION	3
7	RECORDS HOLD IN THE FOLLOWING CATEGORIES	4
8	RECORDS AVAILABEL WITHOUT REQUEST	5
9	REQUEST PROCEDURE	5
10	FEES PAYABLE.....	6
11	INFORMATION OR RECORDS NOT FOUND	7
12	INFORMATION REQUESTED ABOUT A THIRD PARTY	7

1 INTRODUCTION

- 1.1 This manual has been compiled in accordance with section 51 of the Promotion of Access to Information Act, Act No. 2 of 2000 (“PAIA” or “the Act”)
- 1.2 The Manual may be amended from time to time and as soon as any amendments have been affected, the latest version of the Manual will be published and distributed in accordance with PAIA.

2 DEFINITIONS

In this manual, the following words bear the meaning set out below:

- 2.1 “**Maluks**” means Maluleke Inc T/A Maluks Attorneys (registration number: 2019/304925/21);
- 2.2 “**Manual**” means this manual which is published in accordance with section 51 of the Act and “this manual” and “the manual” shall have the same meaning;
- 2.3 “**Client**” means a natural or juristic person who or which receives services from Maluks;
- 2.4 “**Correspondence**” means any written and/or electronic communication exchanged between two or more parties;
- 2.5 “**Employee**” means any person who works for or provides services to or on behalf of Maluks, and receives or is entitled to receive remuneration;
- 2.6 “**Guide**” means the guide published by the SAHRC in terms of section 10 of the Act;
- 2.7 “**Requester**” means any person or entity requesting access to a record that is under the control of Maluks;
- 2.8 “**SAHRC**” means the South African Human Rights Commission;
- 2.9 “**the Act**” means the Promotion of Access to Information Act, Act No. 2 of 2000 (as amended) from time to time including the regulations promulgated in terms of the Act;
- 2.10 “the head of Maluks” means the Chief Executive Officer of Maluks, or any person duly authorised by him or her to carry out the duties ascribed to the “head” of a private body by the Act;
- 2.11 “the Minister” means the Cabinet member responsible for the administration of justice, presently the Minister of Justice and Constitutional Development.

3 PURPOSE OF THE MANUAL

To facilitate requests for access to records of Maluks as provided for in the Act.

4 CONTACT DETAILS

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

The Chairman of Maluks is Joseph Maluleke. Mr Maluleke is the head of Maluks for the purposes of the Act and is the person to whom requests for access to records should be addressed. His contact details are as follows:

Physical address: First Floor, 61 Katherine Street, Sandton, 2196
Postal address: Postnet Suite #236, Private Bag 9976, Sandton, 2196
Tel: 010 300 6128
Fax: 086 666 5249
Email: hello@maluks.com

5 SECTION 10 GUIDE ON HOW TO USE THE ACT

- 5.1 The SAHRC has, in terms of section 10 of the Act, published a Guide to assist persons wishing to exercise any rights in terms of the Act.
- 5.2 The Guide may be obtained from the SAHRC. Any person wishing to obtain the Guide may either access it through the website of the SAHRC at www.sahrc.org.za or should contact:

PAIA Unit Research and Documentation Department
South African Human Rights Commission
Postal address: Private Bag X2700, Houghton, 2041
Tel: 011 484 8300
Fax: 011 484 0582
Email: PAIA@sahrc.org.za

6 RECORDS AVAILABLE IN TERMS OF LEGISLATION

Records held by Maluks are available in terms of legislation other than the Act. The specific records which are available in terms of such legislation are set out in that legislation and these records may in certain instances not be available to requestors in terms of the Act.

- 6.1 Administration of Estates Act 66 of 1965;
6.2 Attorneys Act 53 of 1979;
6.3 Basic Conditions of Employment Act 75 of 1997;
6.4 Companies Act 71 of 2008;
6.5 Compensation for Occupational Injuries and Diseases Act 130 of 1993;
6.6 Consumer Protection Act 68 of 2008;
6.7 Copyright Act 61 of 1978;
6.8 Currency and Exchanges Act 9 of 1933;
6.9 Debt Collectors Act 114 of 1998;
6.10 Employment Equity Act 55 of 1998;
6.11 Financial Intelligence Centre Act 38 of 2001 ("FICA");
6.12 Income Tax Act 58 of 1962;

- 6.13 Insolvency Act 24 of 1936;
- 6.14 Labour Relations Act 66 of 1995;
- 6.15 Medical Schemes Act 131 of 1998;
- 6.16 National Building Regulations and Building Standards Act 103 of 1977;
- 6.17 National Credit Act 34 of 2005
- 6.18 Occupational Health and Safety Act 85 of 1993;
- 6.19 Pension Funds Act 24 of 1956;
- 6.20 Regional Services Councils Act 109 of 1985;
- 6.21 Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002;
- 6.22 Securities Services Act 36 of 2004;
- 6.23 Skills Development Act 97 of 1998;
- 6.24 Skills Development Levies Act 9 of 1999;
- 6.25 Stamp Duties Act 77 of 1968;
- 6.26 Tax on Retirement Funds Act 38 of 1996;
- 6.27 Trade Marks Act 194 of 1993;
- 6.28 Trust Property Control Act 57 of 1988;
- 6.29 Unemployment Insurance Act 63 of 2001; and
- 6.30 Unemployment Insurance Contributions Act 4 of 2002.
- 6.31 Value Added Tax Act 89 of 1991;

7 RECORDS HOLD IN THE FOLLOWING CATEGORIES

- 7.1 Records relating to administration, these documents include shareholders records, minutes of meetings and records relating to the incorporation
- 7.2 Records relating to management, these documents include minutes of meetings of executive committee internal correspondence, resolutions of the directors of Maluks and Fidelity Fund Certificates
- 7.3 Records relating to finance, these documents include accounting, tax, debtors, creditors, insurance, Auditors records and bank and annual financial statements
- 7.4 Records relating to Human Resources, these documents include list of employees with their contact details, payroll records, employment contracts, conditions of employment, employee tax, pension fund and payroll records, employment equity plan and more
- 7.5 Records relating to clients, these documents include FICA documents, legal proceedings, agreements, opinions, correspondence, reports etc.
- 7.6 Records relating to suppliers, these documents include different types of agreements, records regarding computer systems, programmes and software license agreements
- 7.7 Records relating to property, these documents include asset registers, lease agreements and insurance for both movable and immovable property
- 7.8 Records relating to intellectual property, these documents include trade-marks, copyrights and designs held by Maluks, software licences and records relating to domain names

- 7.9 Records relating to miscellaneous, these documents include firm publications, correspondence with Legal Practise Council and internal correspondence

8 RECORDS AVAILABEL WITHOUT REQUEST

- 8.1 Certain records are available without needing to be requested in terms of the request procedures set out in the Act and provided for in this manual. Thus information is also available on Maluks website (www.maluks.com).
- 8.2 The records include:
- 8.2.1 Marketing brochures
 - 8.2.2 Articles on legal developments
 - 8.2.3 Company and individual lawyer profiles

9 REQUEST PROCEDURE

- 9.1 A request for access to records held by Maluks in terms of section 50 of the Act must be made on the form contained in the Regulations Regarding the Promotion of Access to Information (Form C). A copy of the form is attached as Annexure A to this manual. The request must be made to Maluks at the address, telefax number or email address, specified in Section 4 above.
- 9.2 A requester must provide sufficient detail on the prescribed form to allow Maluks to identify the record or records which have been requested and the identity of the requester. If a request is made on behalf of another person or entity, the requester must submit details and proof of the capacity in which the requester is making the request, which must be reasonably satisfactory to Maluks. The requester is also required to indicate the form of access to the relevant records that is required, and to provide his, her or its contact details in the Republic of South Africa.
- 9.3 The requester is required to identify the right that he, she or it is seeking to exercise by accessing records held by Maluks and to explain why the particular record or records requested is or are required for the exercise or protection of that right.
- 9.4 Maluks may, and must in certain instances, refuse access to records on any of the grounds set out in Chapter 4 of Part 3 of the Act. These grounds for refusal include: that access would result in the unreasonable disclosure of personal information about a third party, that it is necessary to protect the commercial information of a third party or of Maluks itself, that it is necessary to protect the confidential information of a third party, that it is necessary to protect the safety of individuals or property, that a record constitutes privileged information for the purpose of legal proceedings, or that it is necessary to protect the research information of a third party or Maluks itself. Access to documents may also be refused on the basis of professional privilege.
- 9.5 Maluks is required to inform a requester in writing of its decision in relation to a request. If the requester wishes to be informed of Maluks decision in another manner as well, this must be set out in the request and the relevant details included, allowing Maluks to inform the requester in the preferred manner.

- 9.6 Maluks will make a decision in relation to a request for records within 30 days of receiving it, unless third parties are required to be notified (as discussed in Section 13 below) or the 30 day period is extended as provided for in the Act, and will notify the requester accordingly.
- 9.7 Where a request is refused, a requester may apply to court within 30 days of being informed of the refusal of the request, for an order compelling the record or records requested to be made available to the requester or for another appropriate order. The court will determine whether the records should be made available or not.

10 FEES PAYABLE

- 10.1 A requester has to pay a request fee of R50.00, other than where the requester is seeking access to a record containing personal information about him, her or itself. This request fee may be paid at the time a request is made, or the person authorised to deal with such requests on Maluks behalf may notify the requester to pay the request fee before processing the request any further. A requester may make an application to Court to be exempted from the requirement to pay the request fee.
- 10.2 A requester whose request for access to a record or records held by Maluks is granted is also required to pay an access fee for the reproduction of the record or records, and for the search for and the preparation of the records for disclosure. Maluks is entitled to withhold a record until the required access fees have been paid. The access fees which are payable are as follows:

	ACTION	FEE
1	Photocopy of an A4-size page or part thereof provided in hard copy or via scanned copy sent via email	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 compact disc	R70.00
4	Transcription of visual images, for an A4-size page or part thereof	R40.00
5	Copy of visual images	R60.00
6	Transcription of an audio record, for an A4-size page or part thereof	R20.00
7	Copy of an audio record	R30.00

- 10.3 In addition, if the search for and preparation of the record or records requested takes more than six hours, Maluks may charge R30.00 for each hour or part thereof which is required for the search for and preparation of the records.
- 10.4 If Maluks is of the opinion that the search for and the preparation of the records requested will require more than six hours, Maluks is entitled to ask for a deposit of one third of the access fees which will be payable in respect of the records requested by the requester. The requester may make an application to Court to be exempted from the requirement to pay this deposit. If a deposit is made and access to the records requested is subsequently refused, the deposit will be repaid to the requester.

11 INFORMATION OR RECORDS NOT FOUND

- 11.1 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 Maluks will notify the requester, by way of an affidavit or affirmation, that it is not possible to give access to the requested record.
- 11.2 The affidavit or affirmation will 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 Maluks with every person who conducted the search.
- 11.3 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 unless access is refused by Maluks as permitted by the Act.

12 INFORMATION REQUESTED ABOUT A THIRD PARTY

- 12.1 Where any information is requested from Maluks that relates to a third party, Maluks is required to notify the third party of the request. The third party has an opportunity to grant his, her or its consent to the disclosure of the record or to make representations as to why the requested record should not be disclosed to the requester. If Maluks decides to grant access to the record, it will notify the affected third party again. The third party is entitled to apply to court in relation to that decision. The court will then determine whether the record should be disclosed by Maluks or not.

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:

.....

.....

.....

.....

2. Reference number, if available:

.....

.....

.....

.....

3. Any further particulars of record:

.....

.....

.....

.....

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

.....

.....

.....

.....

.....

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required:
Mark the appropriate box with an X .	
NOTES:	
(a) Compliance with your request for access in the specified form may depend on the form in which the record is available.	
(b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.	
(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.	

1. If the record is in written or printed form:					
	copy of record*		inspection of record		
2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):					
	view the images		copy of the images*		transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:					
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)		
4. If record is held on computer or in an electronic or machine-readable form:					
	printed copy of record*		printed copy of information derived from the record*		copy in computer readable form* (stiffy or compact disc)

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	YES	NO
--------------------------------------------------------------------------------------------------------------------------------------------------	-----	----

G. Particulars of right to be exercised or protected

If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Indicate which right is to be exercised or protected:

.....

.....

.....

2. Explain why the record requested is required for the exercise or protection of the aforementioned right:

.....

.....

.....

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved / denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

Signed at this day..... ofyear

.....
SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE