

Section 51 Manual

In terms of the Promotion of Access to
Information Act, Act no 2 of 2000.

TMS Dynamics



Compiled on: June 2021

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1. INTRODUCTION

1.1 PROMOTION OF ACCESS TO INFORMATION ACT

The 1996 South African Constitution, by providing a statutory right of access on request to any record held by the state as well as access to records held by private bodies, entrenches the fundamental right to access to information.

The Promotion of Access to Information Act became operative, giving effect to the constitution right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights; and to provide for matters connected therewith [Section 32(2)].

This document is TMS Dynamics's information manual and provides reference to the records held by TMS Dynamics and the process to request access to such records.

1.2 TMS Dynamics

TMS Dynamics Background Information

TMS Dynamics Group PTY LTD was created in 2020, when it separated from Ahead of the Curve PTY LTD to further strengthen and support their product development. In doing this, they have created an independent infrastructure, accelerated the product development process, provided better support for their products as well offer a wider product offering to ultimately offer a much better experience to the end user.

1.3 AVAILABILITY OF THIS MANUAL

This Manual is available on TMS Dynamics's website – <http://www.tmsdynamics.com> or on request from the designated contact person as specified in point 2 of this Manual.

A copy of this Manual is available –

- At our reception desk at our office / Building 4, Pendoring Office Park, 299 Pendoring road, Blackheath, Johannesburg, 2195.
- On request from our Information Officer as specified in point 2 of this Manual.
- On our website: <http://www.tmsdynamics.com>
- From the South African Human Rights Commission ("SAHRC") at the addresses and/or telephone numbers as published by the Commission.

This Manual will be updated from time to time, as and when required.

2. CONTACT DETAILS OF INFORMATION OFFICERS

In terms of the Act, the Director or equivalent, of a private body is designated as the Information Officer. The details of TMS Dynamics's Information Officer and Deputy Information Officer are as follows:

Contact Name:	Leon Grobler
Position:	CEO / Information Officer
Postal Address:	PO BOX 5193, Weltevreden Park, Johannesburg, 1715.
Physical Address:	Building 4, Pendoring Office Park, 299 Pendoring road, Blackheath, Johannesburg, 2195.
Telephone number:	073 789 8629
Email Address:	leon@tmsdynamics.com

Contact Name:	Evan Daniels
Position:	Implementation Manager / Deputy Information Officer
Postal Address:	PO BOX 5193, Weltevreden Park, Johannesburg, 1715.
Physical Address:	Building 4, Pendoring Office Park, 299 Pendoring road, Blackheath, Johannesburg, 2195.
Telephone number:	076 563 3530
Email Address:	evan@tmsdynamics.com

3. SAHRC GUIDE

3.1 GUIDE FOR REQUESTERS ON HOW TO USE THE ACT

A Guide has been compiled in terms of Section 10 of the Act by the Human Rights Commission. It contains information to assist a person wishing to exercise a right, in terms of the Act. Any person wishing to obtain the Guide may either access it through the Human Rights Commission's website at <http://www.sahrc.org.za> or should contact the PAIA Unit Research and Documentation Department:

Postal Address: Private Bag 2700, Houghton, 2041

Phone Number: (011) 484-8300

Fax Number: (011) 484-7146

Website: www.sahrc.org.za

E-mail: PAIA@sahrc.org.za

4. AUTOMATIC DISCLOSURE

4.1 RECORDS AUTOMATICALLY AVAILABLE TO THE PUBLIC

TMS Dynamics has not published a notice in terms of Section 52(2) of the Act; however, it should be noted that the information relating to TMS Dynamics and its services is freely available on the website of TMS Dynamics. Certain other information relating to TMS Dynamics is also made available on such website from time to time.

Further information in the form of marketing brochures, advertising material and other public communication is made available from time to time.

5. LEGISLATIVE RECORDS

5.1 RECORDS HELD IN ACCORDANCE WITH OTHER LEGISLATION

All records kept and made available in terms of legislation applicable to any of the subjects listed in this Manual, as it applies to the specific environment in which the private body operates, are available in accordance with said legislation.

Certain records of TMS Dynamics are available in terms of legislation other than PAIA. The specific records which are available in terms of such legislation are set out therein and these records may in certain instances only be accessed by the persons specified in the relevant legislation. The legislation is as follows:

- Basic Conditions of Employment Act, Act No. 75 of 1997
- Companies Act, Act No. 71 of 2008
- Compensation for Occupational Injuries and Diseases Act, Act No. 130 of 1993
- Consumer Protection Act, 2008, Act No 68 of 2008
- Credit Agreements Act, Act No. 75 of 1980
- Employment Equity Act, Act No. 55 of 1998
- Income Tax Act, Act No. 58 of 1962
- Labour Relations Act, Act No 66 of 1995
- Occupational Health and Safety Act, Act No. 85 of 1993
- Promotion of Access of Information Act
- Protection of Personal Information Act
- Skills Development Act, Act No. 97 of 1998
- Skills Development Levies Act, Act No. 9 of 1999
- Unemployment Insurance Act, Act No. 63 of 2001
- Unemployment Insurance Contributions Act, Act No. 4 of 2002
- Value Added Tax Act, Act No. 89 of 1991

6. RECORDS HELD

6.1 RECORDS SUBJECT AND CATEGORIES

Client Records: A client includes any natural or juristic entity, who receives services from the private body. Client-related information includes the following:

- any records a client has provided to a third party acting for or on behalf of the private body;
- any records a third party has provided to the private body; and
- records generated by or within the private body pertaining to the client, including transactional records.

Companies Act Records

- Documents of incorporation
- Memorandum and Articles of Association
- Register of a director

Financial Records

- Annual Financial Statements
- Tax returns
- Accounting records
- Banking records
- Bank statements
- Electronic banking records
- Rental agreements
- Electronic Invoices

Income Tax Records

- PAYE records
- Documents issued to employees for income tax purposes.
- Records of payment made to SARS on behalf of employees
- All other statutory compliances:
 - VAT
 - Skills development levies
 - UIF

Personnel Documents and Records

- Employment contracts
- Training manuals
- General HR policies and procedures
- Payroll records

Contracts

- Contracts with pension and provident funds
- Contract with auditors
- Contracts with service providers

Other party records: The private body may possess records pertaining to other parties, including without limitation - contractors, suppliers, subsidiary /holding/sister companies, joint venture companies, service providers. Alternatively, such other parties may possess records, which can be said to belong to the private body. The following records fall under this category:

- personnel, client, or private body records which are held by another party as opposed to being held by the private body; and
- records held by the private body pertaining to other parties, including without limitation financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.

7. ACCESS REQUESTS

7.1 ACCESS REQUEST PROCEDURE

The requester must complete Form A (Provided in Section 8 of this manual) and submit this form together with a request fee, to the head of the private body.

7.2 COMPLETION OF ACCESS TO INFORMATION FORM

The form must:

- provide sufficient particulars to enable the head of the private body to identify the record/s requested and to identify the requester,
- indicate which form of access is required,
- specify a postal address or fax number of the requester in the Republic,
- identify the right that the requester is seeking to exercise or protect, and provide an explanation of why the requested record is required for the exercise or protection of that right,
- if in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, to state that manner and the necessary particulars to be informed in the other manner,

- if the request is made on behalf of another person, to submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the head of the private body.

7.3 SUBMISSION OF ACCESS REQUEST FORM

The form must be submitted to the head of the private body at his/ her address, fax number, or electronic mail address.

7.4 PAYMENT OF FEES

To facilitate our processing of your request, please note the following: As per Government Notice No. R187 of 15 February 2002, the following applies to requests (other than personal requests requesting personal information about the requester):

- A requestor is required, on notice from the private body in compliance with s54 of the ACT, to pay the prescribed fees before a request will be processed;
- If the preparation of the record requested requires more than the prescribed hours, a deposit shall be paid;
- A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- Records may be withheld until the fees have been paid;

The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at <http://www.sahrc.org.za>, or the website of THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT (under regulations) at <http://www.doj.gov.za> .

8. FORMS

FORM A

OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION IN TERMS OF SECTION 11(3) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.

4 OF 2013)

REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2017

[Regulation 2(1)]

Note:

1. *Affidavits or other documentary evidence in support of the objection must be attached.*
2. *If the space provided for in this Form is inadequate, submit information as an Annexure to thisForm and sign each page.*

Reference Number.....

A	DETAILS OF DATA SUBJECT
Name and surname of data subject:	
Residential, postal or business address	
Contact number(s):	
Fax number:	
E-mail address:	
B	DETAILS OF RESPONSIBLE PARTY
Name of public or private body (if the responsible party is not a natural person):	
Business address:	
Contact number(s):	
Fax number:	
E-mail address:	



C	REASONS FOR OBJECTION <i>(Please provide detailed reasons for the objection)</i>

Signed at this day of20.....

.....
Signature of data subject (applicant)

FORM B

REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION IN TERMS OF SECTION 24(1) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.

4 OF 2013)

REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2017
[Regulation 3(2)]

Note:

1. *Affidavits or other documentary evidence in support of the request must be attached.*
2. *If the space provided for in this Form is inadequate, submit information as an Annexure to thisForm and sign each page.*

Reference
Number...

Mark the appropriate box with an "x".

Request for:

Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.

Destroying or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information.

A	DETAILS OF DATA SUBJECT
Name and surname of data subject:	
Residential, postal or business address	
Contact number(s):	
Fax number:	
E-mail address:	

B DETAILS OF RESPONSIBLE PARTY	
Name of public or private body (<i>if the responsible party is not anatural person</i>):	
Business address:	
	Code:
Contact number(s):	
Fax number:	
E-mail address:	
C	REASONS FOR *CORRECTION OR DELETION OF THE PERSONAL INFORMATION ABOUT THE DATA SUBJECT/*DESTRUCTION OR DELETION OF A RECORD OF PERSONAL INFORMATION ABOUT THE DATA SUBJECT WHICH IS IN POSSESSION OR UNDER THE CONTROL OF THE RESPONSIBLE PARTY. (Please provide detailed reasons for the request)

**Delete whichever is not applicable*

Signed at this day of20.....

.....
Signature of Data subject

FORM C

APPLICATION FOR THE CONSENT OF A DATA SUBJECT FOR THE PROCESSING OF PERSONAL INFORMATION FOR THE PURPOSE OF DIRECT MARKETING IN TERMS OF SECTION 69(2) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.

4 OF 2013)

REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2017
[Regulation 6]

TO: _____

(Name and address of data subject)

FROM: _____

Contact number(s): _____
 Fax number: _____
 E-mail address: _____

(Name, address and contact details of responsible party)

Dear *Mr/Ms/Mrs/Dr/Adv/Prof

1. In terms of section 69 of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013), the processing of personal information of a data subject (the person to whom personal information relates) for the purpose of direct marketing by means of any form of electronic communication, including automatic calling machines, facsimile machines, SMSs or e-mail is prohibited unless written consent to the processing is given by the data subject. You may only be approached once for your consent by this responsible party. After you have indicated your wishes in Part B, you are kindly requested to submit this Form either by post, facsimile or e-mail to the address, facsimile number or e-mail address as stated above.
2. Processing” means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—
 - (a) The collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
 - (b) dissemination by means of transmission, distribution or making available in any other form; or
 - (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

3. "Personal information" means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—
- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
 - (b) information relating to the education or the medical, financial, criminal or employment history of the person;
 - (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
 - (d) the biometric information of the person;
 - (e) the personal opinions, views or preferences of the person;
 - (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
 - (g) the views or opinions of another individual about the person; and
 - (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

(Signature of person authorised by responsible party)

Full names and designation of person signing on behalf of responsible party:

—

—

Date: _____



PART B

I, _____ (*full names*) hereby:

Consent to goods and services to be marketed by means of unsolicited electronic communication.

SPECIFY GOODS AND SERVICES:

SPECIFY METHOD OF COMMUNICATION:

- FAX :
- E – MAIL :
- SMS :
- OTHERS – SPECIFY :

Give my consent.

Do not give my consent.

Signed at this day of20.....

.....
Signature of data subject