

MANUAL
OF
BENNETT, McNAUGHTON & JANSEN
ATTORNEYS (EDENVALE)

**Prepared in accordance with Section 51 of the Promotion of
Access to Information Act, No 2 of 2000.**

(Private Body)

1 INTRODUCTION

1.1 The Promotion of Access to Information Act, No 2 of 2000 (“**the Act**”) was enacted on 3 February 2000, giving effect to the constitutional 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. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, **except where the Act expressly provides that the information may or must not be released**. The Act sets out the requisite procedural issues attached to such request.

1.2 PURPOSE OF THE MANUAL:

In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the Act in order for them to exercise their rights in relation to public and private bodies.

Section 9 of the Act however recognises that such right to access to information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:

- Limitations aimed at the reasonable protection of privacy;
- Commercial confidentiality; and
- Effective, efficient and good governance;

and in a manner, which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

Wherever reference is made to “*Private Body*” in this manual, it will refer to Bennett, McNaughton & Jansen, Edenvale a private body who renders legal services including legal advice and legal representation to individual clients and businesses / organizations, for whom this manual is drafted.

PART I

2 CONTACT DETAILS

2.1 GENERAL INFORMATION

2.1.1	Name of Private Body:	BENNETT, McNAUGHTON AND JANSEN
2.1.2	Registration No:	Partnership- Not applicable)
2.1.3	Vat Registration No.:	4300183946
2.1.4	Postal Address:	P O BOX 280, EDENVALE, 1610
2.1.5	Physical Address:	13 LINKSFIELD ROAD, EDENVALE, 1609
2.1.6	Telephone Number:	(011) 453 6555
2.1.7	Facsimile number:	(011) 453 6741
2.1.8	E-mail address:	feedback@bmjattorneys.co.za
2.1.9	Website:	www.bmjattorneys.co.za
2.1.10		

2.2 INFORMATION OFFICER:

2.2.1	Full names:	Heinrich D'Heil Schmidt
2.2.2	Postal Address:	P O BOX 280, EDENVALE, 1610
2.2.3	Physical Address:	13 LINKSFIELD ROAD, EDENVALE, 1609
2.2.4	Telephone Number:	(011) 453 6555
2.2.5	Facsimile number:	(011) 453 6741
2.2.6	E-mail address:	heinrich@bmjattorneys.co.za

PART II

3 GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The South African Human Rights Commission has at the date of printing hereof not yet compiled the guide contemplated in Section 10 of the Act. The guide will contain such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act. Any enquiries regarding this guide should be directed to:

The South African HUMAN RIGHTS COMMISSION,

at PAIA Unit (THE RESEARCH AND DOCUMENTATION DEPARTMENT),

Private Bag X2700, HOUGHTON, 2041;

Telephone Number: (011) 484-8300;

Facsimile Number: (011) 484-1360;

Website: www.sahrc.org.za;

E-mail Address: PIAI@sahrc.org.za.

PART III

FUNCTIONS OF BENNETT McNAUGHTON & JANSEN ATTORNEYS, EDENVALE

Structured as a partnership which renders legal services including legal advice and legal representation to individual clients and business / organisations.

4 RECORDS OF BENNETT, McNAUGHTON & JANSEN ATTORNEYS, EDENVALE

This clause serves as a reference to the records that Bennett, McNaughton & Jansen attorneys, Edenvale holds in order to facilitate a request in terms of the Act.

The information is classified and grouped according to records relating to the following subjects and categories:

It is recorded that the accessibility of the documents listed herein below, may be subject to the grounds of refusal set out hereinafter.

PRIVATE BODY DOCUMENTS AND RECORDS

4.1 INCORPORATION DOCUMENTS AND RECORDS

- 4.1.1 Bennett McNaughton and Jansen (Edenvale) holds a Fidelity Fund Certificate issued by the Law Society of the Northern Provinces in terms of the Attorneys Act and the Rules of Law Society of the Northern Provinces Act, as amended, issued yearly.
- 4.1.2 Identification Documents as required by the above Act
- 4.1.3 Internal telephone directory

4.2 FINANCIAL DOCUMENTS AND RECORDS

- 4.2.1 Regional Services Council records
- 4.2.2 Vat records
- 4.2.3 Tax records
- 4.2.4 PAYE records
- 4.2.5 UIF records
- 4.2.6 Asset inventory
- 4.2.7 Asset register
- 4.2.8 Weekly / Monthly / quarterly / annual Statements
- 4.2.9 Cheque account statements
- 4.2.10 Financial reporting
- 4.2.11 Financial documents
- 4.2.12 Remittance advises

4.3 OPERATIONAL DOCUMENTS AND RECORDS

Records include, but are not limited to, the records which pertain to Bennett McNaughton & Jansen's own affairs.

4.4 PERSONNEL DOCUMENTS AND RECORDS

Personal records provided by personnel (including permanent and temporary) including but not limited to:

- 4.4.1 Employment contracts
- 4.4.2 Curriculum vitae
- 4.4.3 Salary Slips
- 4.4.4 Leave records
- 4.4.5 Letters of appointment
- 4.4.6 Increase records
- 4.4.7 Disciplinary records
- 4.4.8 Workplace Skills plan
- 4.4.9 Attendance register
- 4.4.10 Provident fund
- 4.4.11 Unemployment insurance
- 4.4.12 Medical aid
- 4.4.13 Record of deductions

“Personnel” refers to any person who works for, or provides services to or on behalf of Bennett, McNaughton & Jansen, Edenvale, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of Bennett, McNaughton & Jansen, Edenvale. This includes, without limitation, members, all permanent, temporary and part-time staff, as well as contract workers.

4.5 SAFETY RECORDS

- 4.5.1 Records in terms of the Council for Occupational Injuries and Diseases

4.6 INFORMATION TECHNOLOGY RECORDS

- 4.6.1 Licenses
- 4.6.2 Software programs
- 4.6.3 Software applications

4.7 RECORDS REQUIRED IN TERMS OF LEGISLATION

A table of legislation setting out a description of the records of Bennett, McNaughton & Jansen, Edenvale which are available in accordance with certain legislation, is as follows: -

- 4.7.1 Attorneys Act and Rules of the law Society of the Northern Provinces as amended from time to time
- 4.7.2 Supreme Court Act 59 of 1959 as amended
- 4.7.3 Short Term Insurance Act 53 of 1998
- 4.7.4 Criminal Procedures Act 51 of 1977
- 4.7.5 Labour Relations Act 66 of 1995
- 4.7.6 Employment Equity Act 55 of 1998
- 4.7.7 Basic Conditions of Employment Act 75 of 1997
- 4.7.8 Compensation for Occupational Injuries and Diseases Act 130 of 1993
- 4.7.9 Competition Act 89 of 1998
- 4.7.10 Insolvency Act 24 of 1936
- 4.7.11 Constitution of SA 108 of 1996
- 4.7.12 Companies Act 61 of 1973
- 4.7.13 Unemployment Insurance Act 63 of 2001
- 4.7.14 Value Added Tax Act 89 of 1991
- 4.7.15 Skills Development Act 9 of 1999
- 4.7.16 Usury Act 79 of 1968
- 4.7.17 Pension Funds Act 24 of 1962
- 4.7.18 Income Tax Act 58 of 1962

Reference to the above-mentioned legislation shall include subsequent amendments to such legislation.

4.8 OTHER PARTY RECORDS

- 4.8.1 Personnel, customer or office records which are held by another party, as opposed to the records held by Bennett, McNaughton & Jansen, Edenvale itself;
- 4.8.2 Records held by Bennett, McNaughton & Jansen, Edenvale pertaining to other parties, including without limitation, financial records, correspondence, contractual and transactional records, records provided by the other party, and records third parties have provided about contractors/suppliers.

PART IV

5 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

The main grounds for Bennett, McNaughton & Jansen, Edenvale to refuse a request for information relates to the -

- 5.1 mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- 5.2 mandatory protection of the commercial information of a third party, if the record contains –
 - 5.2.1 trade secrets of that third party;
 - 5.2.2 financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
 - 5.2.3 information disclosed in confidence by a third party to Bennett, McNaughton & Jansen, Edenvale, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- 5.3 mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- 5.4 mandatory protection of the safety of individuals and the protection of property;
- 5.5 mandatory protection of records which would be regarded as privileged in legal proceedings;
- 5.6 the commercial activities of Bennett, McNaughton & Jansen, Edenvale, which may include –
 - 5.6.1 Confidential information regarding all Court matters handled by Bennett, McNaughton & Jansen, Edenvale;
 - 5.6.2 financial, commercial, scientific or technical information which disclosure of could likely cause harm to the financial or commercial interests of Bennett, McNaughton & Jansen, Edenvale;
 - 5.6.3 information which, if disclosed could put Bennett, McNaughton & Jansen, Edenvale at a disadvantage in negotiations or commercial competition;
 - 5.6.4 a computer program which is owned by Bennett, McNaughton & Jansen, Edenvale, and which is protected by copyright.
- 5.7 the research information of Bennett, McNaughton & Jansen, Edenvale or a third party, if its disclosure would disclose the identity of Bennett, McNaughton & Jansen, Edenvale, the researcher or the subject matter of the research and would place the research at a serious disadvantage;

- 5.8 Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

6 REMEDIES AVAILABLE WHEN BENNETT, McNAUGHTON & JANSEN, EDENVALE REFUSES A REQUEST FOR INFORMATION

6.1 INTERNAL REMEDIES

Bennett, McNaughton & Jansen, Edenvale does not have an internal appeal procedure. 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 information is refused, and the requester is not satisfied with the answer supplied by the information officer.

6.2 EXTERNAL REMEDIES

A requester that is dissatisfied with an information officer's refusal to disclose information, may within 30 days of notification of the decision, apply to a relevant Court for relief.

Likewise, a third party dissatisfied with an information officer's decision to grant a request for information, may within 30 days of notification of the decision, apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

7 REQUEST PROCEDURE

- 7.1 The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.
- 7.2 The requester must complete the prescribed form enclosed herewith in **Appendix 1**, and submit same as well as payment of a request fee and a deposit, if applicable to the Information Officer at the postal or physical address, fax number or electronic mail address as stated in 2.1 or 2.2 above.
- 7.3 The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify –
- 7.3.1 The record or records requested;
 - 7.3.2 The identity of the requester,
 - 7.3.3 Which form of access is required, if the request is granted;
 - 7.3.4 The postal address or fax number of the requester.
- 7.4 The requester must state that he/she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.
- 7.5 Bennett, McNaughton & Jansen, Edenvale will process the request within 30 days, unless the requester has stated special reasons which would satisfy the Information officer that circumstances dictate that the above time periods not be complied with.

- 7.6 The requester shall be informed whether access granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he/she must state the manner and the particulars so required.
- 7.7 If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the information officer.
- 7.8 If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 7.9 The requester must pay the prescribed fee, before any further processing can take place.

8 ACCESS TO RECORDS HELD BY BENNETT, McNAUGHTON & JANSEN, EDENVALE

- 8.1 Records held by Bennett, McNaughton & Jansen, Edenvale may be accessed by requests only once the prerequisite requirements for access have been met.
- 8.2 A requester is any person making a request for access to a record of Bennett, McNaughton & Jansen Edenvale. There are two types of requesters:

8.2.1 PERSONAL REQUESTER

- 8.2.1.1 A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- 8.2.1.2 Bennett, McNaughton & Jansen, Edenvale will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

8.2.2 OTHER REQUESTER

- 8.2.2.1 This requester (other than a personal requester) is entitled to request access to information on third parties. However, Bennett, McNaughton & Jansen, Edenvale is not obliged to voluntarily grant access. The requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

9 FEES

- 9.1 The Act provides for two types of fees, namely:
 - 9.1.1 A request fee, which will be a standard fee; and
 - 9.1.2 An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- 9.2 When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before any further processing of the request.

- 9.3 If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the information officer shall notify the requester to pay as a deposit the prescribed portion of the Access fee which would be payable if the request is granted.
- 9.4 The information officer shall withhold a record until the requester has paid the fees as indicated in **Appendix 2**.
- 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 the request form.
- 9.6 If a deposit has been paid in respect of a request for access, which is refused, then the information officer concerned must repay the deposit to the requester.

10 DECISION

- 10.1 Bennett, McNaughton & Jansen, Edenvale will, within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.
- 10.2 The 30 day period with which Bennett, McNaughton & Jansen, Edenvale has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty days if the request is for a large amount of information, or the request requires a search for information held at another office of Bennett, McNaughton & Jansen, Edenvale and the information cannot reasonably be obtained within the original 30 day period. Bennett, McNaughton & Jansen, Edenvale will notify the requester in writing should an extension be sought.

11 AVAILABILITY OF THE MANUAL

- 11.1 This manual is made available in terms of Regulation Number R. 187 of 15 February 2002.

APPENDIX - 1

PRESCRIBED FORM TO BE COMPLETED BY A REQUESTER

FORM B

**REQUEST FOR ACCESS TO RECORDS OF BENNETT, McNAUGHTON & JANSEN,
EDENVALE**

(Section 53(1) of the Promotion of Access to Information Act, No 2 of 2000)

(Regulation 4)

A. Particulars of _____

The Head:

B. Particulars of Person requesting access to the record

- (a) *The particulars of the person who requests access to the records must be recorded below.*
- (b) *Furnish an address and/or fax number in the Republic to which information must be sent.*
- (c) *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full Name and Surname: _____

Identity Number: _____

Postal Address: _____

Telephone Number: _____ Fax Number: _____

E-mail address: _____

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person of whose behalf request is made:

This section must be completed only if a request for information is made on behalf of another person

Full names and Surname: _____

Identity Number: _____

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 the Record or relevant part of the record:

2. Reference number, if available:

3. Any further particulars of the 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 of the request fee.*
- (c) *The **fee payable for access** to a record depends on the form in which the 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 therefore.*

Reason for exemption of payment of the fee:

F. Form of Access to the 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 hereunder, 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) *Your indication as to the required form of access depends 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 the 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 the 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 the 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? A postal fee is payable.	YES	NO
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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

Indicate which right is to be exercised or protected: _____

Explain why the requested record is required for the exercising 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 thereof 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 of _____ 200__

SIGNATURE OF REQUESTER/PERSON
ON WHOSE BEHALF REQUEST IS MADE

APPENDIX – 2

REPRODUCTION FEES

Where requested document appear in the appendix 1 i.e. Bennett, McNaughton & Jansen, Edenvale has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

THE APPLICABLE FEES FOR REPRODUCTION AS REFERRED TO ABOVE ARE:

- For every photocopy of an A4-size page or part thereof R 1,10
- For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form R 0,75
- For a copy in a computer-readable form on
 - Stiffy disc R 7,50
 - Compact disc R 70,00
- A transcription of visual images, for an A4-size page or part thereof R 40,00
- For a copy of visual images R 60,00
- A transcription of an audio record, for an A4-size page or part thereof R 20,00
- For a copy of an audio record R 30,00

Request fees:

Where a requester submits a request for access to information held by an Private Body on a person other than the requester himself/herself, a request fee in the amount of R50, 00 is payable up-front before the Private Body will further process the request received.

Access fees:

An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act or an exclusion is determined by the Minister in terms of Section 54 (8).

The applicable access fees which will be payable are:

- For every photocopy of an A4-size page or part thereof R 1,10
- For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form R 0,75
- For a copy in a computer-readable form on
 - Stiffy disc R 7,50
 - Compact disc R 70,00
- A transcription of visual images, for an A4-size page or part thereof R 40,00
- For a copy of visual images R 60,00
- A transcription of an audio record, for an A4-size page or part thereof R 20,00
- For a copy of an audio record R 30,00
- To search for a record that must be disclosed R 30,00
(per hour or part of an hour reasonably required for such search)
- Where a copy of a record needs to be posted the actual postal fee is payable.

Deposits:

Where Bennett, McNaughton & Jansen, Edenvale receives a request for access to information held on a person other than the requester himself/herself and the information officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take more than 6 (six) hours, a deposit is payable by the requester.

The amount of the deposit is equal to $\frac{1}{3}$ (one third) of the amount of the applicable access fee.

Note: In terms of Regulation 8, Value Added Tax (VAT) must be added to all fees prescribed in terms of the Regulations.
