



SAMAC
Macadamias South Africa NPC
Macadamia First. Quality Always

Macadamias South Africa NPC (SAMAC)

Registration Number: 2017/656242/08

SAMAC PAIA (Promotion of Access to Information Act 2 of 2000) Manual

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as a Private Body in terms of
Section 51 of the
Promotion of Access to Information Act 2 of 2000 (PAIA)**



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Table of Contents

1. Introduction.....	1
2. Availability and Purpose of this PAIA Manual.....	2
3. Availability of guides to the PAIA and POPI Acts.....	2
4. Contact details in terms of Section 51 of PAIA.....	2
5. General Information:.....	3
6. Applicable Legislation:.....	3
7. Company records.....	4
8. Processing of personal information.....	9
9. Prescribed request forms and fees.....	11
10. Remedies and decision.....	13



1. Introduction

- 1.1 SAMAC is a Non-Profit Commodity Organisation and conducts research as well as provides information regarding to the research and development findings as well as transformation funding assistance, conducts a marketing strategy to increase global demand and provide general statistical information to its members.
- 1.2 This manual is published in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 (the “PAIA Act”) [the “Manual”] and provides an outline of the type of records and personal information which SAMAC holds and processes. The Manual also explains how to submit requests for access to these records in terms of the PAIA Act. In addition to explaining how to access, or object to, personal information held by SAMAC, or request correction of the personal information, in terms of Sections’ 23 and 24 of the Protection of Personal Information Act 4 of 2013 (the “POPI Act”), the Manual also explains how to submit requests for access to these records in terms of the PAIA Act.
- 1.3 The objective of the PAIA Act is to give effect to the constitutional right to access information, which information is held by a public or private body and which information is required for the exercise or protection of any rights. The PAIA Act recognises the right entrenched in Section 32 of the Constitution of the Republic of South Africa, 1996 and aims to foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information.
- 1.4 Accordingly, this PAIA Manual aims to establish and foster a culture of compliance with prevailing data protection legislation, which in turn gives rise to an environment within which the rights to access to information are actively protected and promoted.
- 1.5 Section 9 of the PAIA Act dictates that the right to access to information is not an unlimited right and is subject to certain limitations, which include limitations which balance the rights which data subjects have to access information against other rights which data subjects and interested parties have, whether it be in terms of the Constitution of the Republic of South Africa, 1996 or otherwise. Some of these rights which the right to access to information are weighed up against are aimed at protecting the fundamental right to privacy and maintaining the confidentiality (whether it be commercial or individual confidentiality) of interested parties so as to maintain acceptable levels of governance.

2. Availability and Purpose of this PAIA Manual

- 2.1 This PAIA Manual is published on SAMAC's website or alternatively, a copy can be requested from the Information Officer or Deputy Information Officer, which copy may also be inspected at SAMAC's physical address set forth in paragraph 4 below.
- 2.2 The primary purpose of this PAIA Manual is to facilitate requests for access to information held by SAMAC, which requests shall be made in accordance with the prescribed procedures and at the rates provided for in paragraph 9 of this PAIA Manual. In addition to the above, the further purposes of this PAIA Manual, are to describe the records held by SAMAC and to clearly articulate the grounds upon which access to any such records may be refused.

3. Availability of guides to the PAIA and POPI Acts

- 3.1 Guides to the PAIA and POPI Acts can be obtained, and queries directed to:

POPI and PAIA Acts

The office of the Information Regulator:

Physical Address	JD House 27, Stiemens Street Braamfontein, Johannesburg, Gauteng
Website	www.justice.gov.za/inforeg/
E-mail	inforeg@justice.gov.za

4. Contact details in terms of Section 51 of PAIA

Chief Executive Officer	Lizel Pretorius
Information Officer	Jurita van Zyl
Deputy Information Officer	Juandre du Toit
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5. General Information:

Name of private body	SAMAC t/a SAMAC
Industry	Non-Profit Commodity Organisation
Registration number	2017/656242/08
VAT registration number	4230287247
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6. Applicable Legislation:

- 6.1 The following legislation, amongst others which may become applicable from time to time including any subsequent amendment thereto, is applicable to and observed by SAMAC pursuant to undertaking its day-to-day operations:

Item no	Legislative reference	Act
1	No. 75 of 1997	The Basic Conditions of Employment Act
2	No. 53 of 2003	The Broad-Based Black Economic Empowerment Act
3	No. 71 of 2008	The Companies Act
4	No. 130 of 1993	Compensation for Occupational Injuries and Diseases Act
5	No. 25 of 2002	The Electronic Communications and Transactions Act
6	No. 55 of 1998	The Employment Equity Act
7	No. 37 of 2002	The Financial Advisory and Intermediary Services Act
8	No. 58 of 1962	The Income Tax Act
9	No. 66 of 1995	The Labour Relations Act
10	No. 2 of 2000	The Promotion of Access to Information Act
11	No. 4 of 2013	The Protection of Personal Information Act
12	No. 63 of 2001	The Unemployment Insurance Act
13	No. 89 of 1991	The Value Added Tax Act
14	No. 85 of 1993	The Occupational Health and Safety Act
15	No. 97 of 1998	The Skills Development Act
16	No. 9 of 1999	The Skills Development Levies Act

Item no	Legislative reference	Act
17	No. 4 of 2000	Promotion of Equality and Prevention of Unfair Discrimination Act
18	No. 91 of 1964	The Customs and Excise Act 91 of 1964

7. Company records

7.1 Availability of SAMAC's Records

7.1.1 The provisions of the PAIA Act, specifically the provisions of Section 50 of the Act, dictate that a requester for access to information must be afforded access to any record of SAMAC if the following requirements are met:

7.1.1.1 where a particular record is required for the exercise or protection of any rights (Section 50(1)(a) of PAIA);

7.1.1.2 where a requester complies with the procedural requirements set forth in the PAIA Act relating to a request for access to particular records (Section 50(1)(b) of PAIA); and

7.1.1.3 where access to that particular record is not refused in terms of any of the grounds for refusal to access contemplated in terms of Chapter 4 of the PAIA Act (Section 50(1)(c) of PAIA).

7.1.2 The below table sets forth the categories and subcategories of records which SAMAC processes. Each category and subcategory of records set out below may be subject to anyone (or a number) of the grounds upon which SAMAC may refuse access to records. These grounds for refusal are set out in Chapter 4 of the PAIA Act, as well as described in the table at 3.2 below.

7.1.2.1 Personnel records

Personnel refers to any person who works for or provides services to or on behalf of SAMAC and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting the business of SAMAC. This includes, without limitation, directors, executive directors, non-executive directors, all permanent, temporary and part-time staff as well as contract workers. Personnel records include the following:

- Any personal records provided to SAMAC by our personnel
- Any records a third party has provided to SAMAC about any of their personnel
- Conditions of employment and other personnel-related contractual and quasi-legal records
- Internal evaluation records
- Training schedules and materials
- Other internal records and correspondence related to a particular individual

7.1.2.2 Customer-Related Records

Please be aware that SAMAC is very concerned about protecting the personal information of any Data Subjects as defined in terms of the Protection of Personal Information Act, 4 of 2013). Please motivate any request for customer information very carefully, having regard to Sections 63 to 67 of the Act.

Customer records may include the following:

- Any records a customer has provided to SAMAC or a third party acting for or on behalf of SAMAC
- Contractual information
- Customer needs assessments
- Personal records of customers
- Credit information and other research conducted in respect of customers
- Any records a third party has provided to SAMAC about customers
- Confidential, privileged, contractual and quasi-legal records of customers
- Customer evaluation/review records
- Customer profiling
- Performance research conducted on behalf of customers or about customers
- Any records a third party has provided to SAMAC either directly or indirectly
- Records generated by or within SAMAC pertaining to customers, including transactional records

7.1.2.3 Technical Records

- Technical reports
- Technical data
- Plans, new products and services, brands and trademarks forming part of the intellectual property rights of SAMAC

7.1.2.4 Third Parties

Records are kept in respect of other third parties, including without limitation contractors, suppliers, agents and/or service providers. In addition, certain third parties may possess records, which can be said to belong to SAMAC and in such instances those third parties process such records for and on behalf of SAMAC in their capacities as process operators and subject to prescribed contractual terms. The following records fall under this category:

- Personnel, customer or SAMAC records which are held by another third party as opposed to being held by SAMAC
- Records held by SAMAC pertaining to other parties, including financial records, correspondence, contractual records, electronic mail, logs, cached information, records provided by the other party, and records third parties have provided about the contractors/suppliers or customers

7.1.2.5 Other Records

Further records are held including:

- Information relating to SAMAC's own business activities
- Research carried out on behalf of a client by SAMAC or commissioned from a third party for a customer
- Research information belonging to SAMAC, whether carried out itself or commissioned from a third party

7.2 Access to Health or Other Records

7.2.1 If a request for access to health or other records provided by a health practitioner, in their capacity as such, relates to the physical, mental health, or well-being of the requester, or if the request has been made on behalf of the person to whom the record relates ("the relevant person"), and SAMAC's Information Officer is of the opinion that the disclosure of the record to the relevant person might cause harm to his or her physical, mental health or well-being, SAMAC's Information Officer may, before giving access to such record consult with a health practitioner who has been nominated by the relevant person.

7.2.2 If the relevant person is below the age of 16 years, a person having parental responsibilities for the relevant person must make the above nomination and if the relevant person is incapable of managing his or her affairs, a person appointed by the court to manage those affairs must make that nomination.

7.2.3 If, after being given access to the relevant record, the health practitioner consulted is of the opinion that the disclosure of the record to the relevant person, would be likely to cause serious harm to his or her physical, mental health or well-being, the Information Officer may only grant access to the relevant record if the requester proves that adequate provision is made for such counselling or arrangements as are reasonably practicable before, during or after the disclosure of the record to limit, alleviate or avoid such harm to the relevant person. Before access to the record is given to a requester, the person responsible for such counselling or arrangement must be given access to the record.

7.3 Grounds for Refusal of Access to Records

7.3.1 Upon receipt of a request for access to information, SAMAC will be required to consider such a request in light of the provisions of Section 50 of the PAIA Act. Subject to such consideration, SAMAC will be required to either grant such a request or refuse such a request. If SAMAC elects to refuse access to a particular record, such refusal will be subject to SAMAC's interpretation of the various prescribed grounds for refusal as set forth in Chapter 4 of the PAIA Act and in the table below:

Ground(s) For Refusal	Description and Explanation of Ground(s) for Refusal
Mandatory protection of privacy of third party who is a natural person [Section 63 of PAIA]	SAMAC may refuse access to a record if the disclosure of that record would involve the unreasonable disclosure of personal information relating to a third party, including a deceased individual.
Mandatory protection of commercial information of third party [Section 64 of PAIA]	<p>SAMAC may refuse a request for access to a record if the record comprises of or is constituted by the following information relating to a third party –</p> <ul style="list-style-type: none"> • Trade secrets of a third party; • Financial, commercial, scientific or technical information, other than trade secrets, of a third party, which if disclosed is likely to cause harm to the commercial or financial interests of the third party; • Information which has been supplied in confidence by a third party, the disclosure of which could reasonably be expected to place the third party at a disadvantage in contractual or other negotiations or is likely to prejudice the third party in commercial competition.
Mandatory protection of certain confidential information of a third party [Section 65]	SAMAC may refuse access to a record which if disclosed would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement or contractual relationship.

Ground(s) For Refusal	Description and Explanation of Ground(s) for Refusal
Mandatory protection of safety of individuals and protection of property [Section 66]	<p>SAMAC may refuse a request for access to record if its disclosure could reasonably be expected to endanger the life or physical safety of an individual, or if its disclosure would be likely to prejudice or impair the security of:</p> <ul style="list-style-type: none"> • a building, structure or system, including but not limited to a computer or communication system, a means of transport or any other property; • method(s), system(s), plans or procedures for the protection of an individual in accordance with a witness protection scheme, the safety of the public, or any part of the public or the security of property.
Commercial information of Private Body [Section 68]	<p>SAMAC may refuse a request for access to a record if the record contains (or comprises of):</p> <ul style="list-style-type: none"> • Trade secrets of the Private Body; • Financial, commercial, scientific or technical information, other than trade secrets of the Private Body, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Private Body; • Information, the disclosure of which could reasonably be expected to put the Private Body at a disadvantage in contractual or other negotiations or prejudice the Private Body in commercial competition; • A computer programme (as defined in Section 1(1) of the Copyright Act 98 of 1978 as amended) owned by the Private Body, except insofar as it is required to give access to a record to which access is granted in terms of the PAIA Act.
Mandatory protection of research information of third party, and protection of research information of private body [Section 69]	<p>SAMAC may refuse a request for access to a record if the record contains information about research being or to be carried out by or on behalf of a third party/private body, the disclosure of which would be likely to expose the third party/private body, a person that is (or will be) carrying out the research on behalf of the third party/private body, or the subject matter of the research to serious disadvantage.</p>

8. Processing of personal information

8.1 Pursuant to promoting responsible information processing practices within its organisation, as well as in its capacity as responsible party contemplated in terms of the provisions of the POPI Act, SAMAC takes any activities relating to the protection and processing of personal information (as defined in terms of the provisions of Section 1 of the POPI Act) very seriously. To promote the constitutional right to privacy, as well as to play its part in promoting the rights protected in terms of the POPI Act, SAMAC undertakes to, in so far as is required of it, observe the requirements and conditions for the lawful processing of personal information.

8.2 The purposes for which personal information is processed

8.2.1 SAMAC may process personal information for a variety of purposes, which may include, but is not limited to, the following purposes:

- 8.2.1.1 Macadamia Production Data to calculate voting rights
- 8.2.1.2 Industry Statistics to observe trends
- 8.2.1.3 Research projects
- 8.2.1.4 Statutory Requirements
- 8.2.1.5 Compliance with Relevant Industry Laws & Legislation
- 8.2.1.6 Registration and Application of Membership

8.3 Categories of data subjects and personal information processed

8.3.1 The categories of data subjects and personal information processed by SAMAC may include, but is not limited to, the following:

- 8.3.1.1 Name & Surname
- 8.3.1.2 Contact Details
- 8.3.1.3 Postal & Physical Address
- 8.3.1.4 Production Data
- 8.3.1.5 Relevant Tax Information
- 8.3.1.6 Farming Locations
- 8.3.1.7 Nature of Operations

8.4 The processing of personal information and categories of recipients with whom personal information is shared

8.4.1 Subject to any relevant terms and conditions of use which may be applicable when a data subject engages with SAMAC, we may share the personal information of any data subject we process for any of the purposes outlined in paragraph 8.2 above, with the following third parties, whether such third parties qualify as “responsible parties” in terms of Section 1 of the POPI Act or not:

- 8.4.1.1 any relevant service providers and suppliers;
- 8.4.1.2 any relevant regulatory authorities who may govern SAMAC in undertaking its operations;
- 8.4.1.3 any approved service provider, contractor or supplier with whom SAMAC has an agreement;
- 8.4.1.4 any approved business partners who provide products and services to SAMAC; and
- 8.4.1.5 any approved service providers or authorised agents who perform services on SAMAC’s behalf.

8.4.2 SAMAC processes personal information in order to facilitate and enhance the delivery of products and services to its members, foster a legally compliant workplace environment, as well as safeguard the personal information relating to any data subjects which it in fact holds. We undertake to process any personal information in a manner which promotes the constitutional right to privacy, retains accountability and data subject participation. In any circumstances where we process the personal information of data subjects, SAMAC maintains appropriate privacy notices where the purposes of the processing of any personal information and the processing takes place, is recorded and communicated to data subjects.

8.5 Information security measures to protect personal information

8.5.1 We have, and continue to, implement reasonable, technical and organisational measures for the protection of personal information processed by SAMAC. We at all times take reasonable and appropriate security measures to secure the integrity and confidentiality of personal information in our possession in order to guard against:

- 8.5.1.1 the loss of, damage to or unauthorised destruction of personal information;
- 8.5.1.2 the unlawful access or processing of personal information; or
- 8.5.1.3 the wilful manipulation of personal information.

8.5.2 We will take steps to ensure that any third-party process operators (as defined in terms of Section 1 of the POPI Act) who process personal information on behalf of SAMAC apply adequate safeguards as outlined above.

8.6 Trans-border flows of personal information

- 8.6.1 SAMAC will only transfer personal information across South African borders if the relevant business transactions or situation requires trans-border processing and will do so only in accordance with South African legislative requirements or if the relevant data subject consents to the transfer of their personal information to third parties in any foreign jurisdictions.
- 8.6.2 We will take reasonable steps to ensure that any third-party process operators are bound by laws, binding corporate rules or binding agreements that provide an adequate level of protection and uphold the principles for reasonable and lawful processing of personal information as contemplated in terms of the POPI Act.

8.7 Personal information received from third parties

- 8.7.1 When SAMAC receives personal information from any third party on behalf of a data subject, we require confirmation that such a third party has written consent from the data subject indicating that said data subject is aware of the contents of this PAIA Manual and SAMAC's Privacy Policy, and do not have any objection to our processing their personal information accordingly.

9. Prescribed request forms and fees

9.1 How to gain access to records held

- 9.1.1 Records which are held by SAMAC may be accessed by requests for such access to information and documentation in the prescribed manner and subject to certain requirements being met. In this regard a requester is any person making a request for access to a record held by SAMAC, and there are two types of requesters:

9.1.1.1 A Personal Requester

A personal requester is a requester who is seeking access to a record containing personal information about the requester and SAMAC will voluntarily provide the requested information or give access to any record with regard to the requester's personal information. In this regard, the prescribed fees for the reproduction of this information requested may be charged.

9.1.1.2 Other Requester

This requester (other than a personal requester) is entitled to request access to information on third parties. SAMAC is, however, not obliged to voluntarily grant access and the requester must fulfil the procedural requirements for access in terms of the PAIA Act, including the payment of a request and access fee.

Requests for access to records must be made by completing the prescribed Form A and paying the requester's fee. Where such access is granted in terms of this PAIA Manual, the information and documentation will be made available at the offices of SAMAC (the particulars of which appear in paragraph 4 above) or in the manner requested, should this be reasonable and possible. The manner of access will include:

- Perusal with copying of material if needed and at the prescribed fee for copies;
- Access to visual, audio visual material with a transcription, dubbing, copying or both, if required.

To facilitate the processing of any request by a requester for information or documentation in terms of this PAIA Manual, requesters are required to follow the procedure set forth herein below:

- Use the prescribed Form A attached hereto as Annexure A, alternatively found on SAMAC's website.
- Address your request to the Information or Deputy Information Officer.
- Provide sufficient detail to enable SAMAC or any authorised person dealing with a request to identify:
 - a) The record(s) requested;
 - b) The requestor (and, if an agent is lodging the request or behalf of someone, proof of capacity and authorisation);
 - c) The South African postal address, email address or fax number of the requestor;
 - d) The form of access required;
 - e) If the requester wishes to be informed of the decision in any manner (in addition to being informed in writing) the manner and particulars thereof;
 - f) The right which the requestor is seeking to exercise or protect with an explanation of the reason the record is required in order to exercise or protect the right.

9.2 Prescribed fees

9.2.1 The following applies to requests (other than personal requests):

9.2.1.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.

9.2.1.2 If the preparation of the record requested requires more than the prescribed hours, a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted).

9.2.1.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit.

9.2.1.4 Records may be withheld until the fees have been paid.

The detailed Fee Structure as prescribed in terms of Section 54 of the PAIA Act is attached hereto as **Annexure B** and is also available on SAMAC's website.

9.3 Access to prescribed forms and fees

9.3.1 Prescribed forms and fees are published on SAMAC's website or, alternatively, copies can be requested from the Information Officer or Deputy Information Officer (see contact details in paragraph 4). Prescribed forms and fees can be found on SAMAC's website.

10. Remedies and decision

10.1 Internal Remedies

10.1.1 SAMAC does not have an internal appeal procedure regarding PAIA and POPI Act requests for access to information. As such, the decision made by the Information Officer, is final.

10.1.2 If a request is denied and the requester is dissatisfied with the Information Officer's decision, the requestor will be required to exercise such external remedies at their disposal if a request for information is refused.

10.2 External Remedies

10.2.1 A requestor who is dissatisfied with the Information Officer's refusal to disclose information, may within 30 (thirty) days of notification of the decision apply to a competent Court, with jurisdiction over these applications in terms of the PAIA Act, for appropriate relief.

10.3 Time Afforded to respond

10.3.1 SAMAC is required to, within 30 (thirty) days of receipt of a request, decide whether to grant or decline the request and, if required, provide the requester with reasons to that effect.

10.3.2 The 30 (thirty) day period stipulated in paragraph 10.3.1 above, may be extended for a further period of not more than 30 (thirty) days if the request is for a large amount of information, or the request requires an extensive search for information which cannot reasonably be obtained within the originally stipulated 30 (thirty) day period.

10.3.3 In circumstances contemplated in paragraph 10.3.2, SAMAC will notify the requester in writing should an extension be sought.

Compiled by SAMAC on 30 June 2021



Lizel Pretorius
Chief Executive Officer

