

Promotion of Access to Information Act (PAIA) Manual – Pegasys Group



In terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 (the “Act”)

08 November 2019



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1 Introduction

On 9 March 2001, the Promotion of Access to Information Act, No. 2 of 2000 (“the Act”) became operative, giving effect to the section 32(2) Constitutional right of access to information. This document serves as the Pegasys’ information manual and provides reference to the records held by Pegasys and the process to request access to such records.

2 Company Overview

This information manual is published in respect of the following companies/entities in South Africa, United Kingdom, Mauritius and Kenya (hereinafter referred to as “Pegasys”);

a. Pegasys International Holdings (Pty) Ltd	2014/003488/07
b. Pegasys (Pty) Ltd	2014/015454/07
c. Pegasys Strategy and Development (Pty) Ltd	2000/004358/07
d. Pegasys Global Consulting (Pty) Ltd	2015/130060/07
e. Maprolus (Pty) Ltd	2017/656527/07
f. Marshana Trade and Invest (Pty) Ltd	2013/212973/07
g. Pegasys Institute NPC	2014/144323/08
h. Pegasys AME (Mauritius)	13127 C1/GBL
i. Pegasys Limited (United Kingdom)	10333897
j. Pegasys East Africa (Kenya)	PVT/2016/014887

PEGASYS is a multidisciplinary strategic management consulting group specializing in emerging economies, with an extensive track record across Africa, coupled with a global profile through our staff of international experts and a growing presence in the developing world. We are a trusted advisor on climate change, green growth, resilient economies, low-carbon development, natural resources management (particularly in the water sector), sustainable transport, and public infrastructure

3 Purpose of the Manual and PAIA

The purpose of this manual is to formally document Pegasys’ commitment to the Promotion of Access to Information Act of 2000 which give effect to Section 32 of the South African Constitution. The manual is designed to meet the requirements as outlined in Section 51 of the Promotion of Access to Information Act of 2000.

Section 32 of the Constitution addresses “Access to Information”. It states that each person has the right to access information held by the State or information held by other people if such information will be used to exercise or protect any rights. PAIA gives effect to this section of the Constitution. PAIA aims to promote a culture of transparency, accountability and effective governance in both private and public bodies.



4 Terms used in this document

- Terms defined in the act shall have the meaning set out therein;
- Reference to sections shall be a reference to sections in the Act

5 Section 51 of PAIA

5.1 Section 51(1)(a) – Contact Details of Pegasys

For the purposes of this manual, any person wishing to contact Pegasys can do so by using Pegasys' contact details as specified below:

Information Officer:	Managing Director: South Africa
Physical address:	Pegasys, 1 st Floor, 4 Church Square, Spin Street, Cape Town, 8001
Postal address:	P.O. Box 557, Cape Town, 8000
Telephone:	+27 (21) 4615476
Facsimile:	+27 86 663 8373
E-mail:	admin@pegasys.co.za
Website:	http://www.pegasys.africa

The responsibility for administration of, and compliance with the Act is that of the Executive Committee of Pegasys.

5.2 Section 51(1)(b) – South African Human Rights Commission Guide

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, the public body must be acting in the public interest.

Requests in terms of PAIA shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.

Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights.

The Guide is available from the SAHRC. The contact details of the Commission are:

- Postal Address: Private Bag 2700, Houghton, 2041
- Telephone Number: +27-11-877 3600
- Fax Number: +27-11-403 0625



- Website: www.sahrc.org.za
- Email: PAIA@sahrc.org.za

5.3 Section 51(1)(c) – Automatic Availability of Certain Records

Records falling within this category will be made available to the requestor without the need for making a request in terms of the Act. Such records are:

- All records available on the Pegasys website www.pegasys.africa which includes records in respect of the following;
 - Group Profile
 - Our Services and Sectors
 - Our work achievements
 - Insights and Publications
 - Social Investment
 - Our People
 - Contact information – local and international offices
 - Information Manual
 - Careers
- Pegasys marketing material and brochures

5.4 Section 51(1)(d) – Records available in accordance with other legislation

Records in terms of any other legislation are kept and made available in accordance with the applicable legislation, as it is applied to the specific environment in which Pegasys operate. Pegasys maintain a number of records in line with legislation which includes but is not limited to:

- Basic Conditions of Employment Act 75 of 1997
- Broad Based Black Economic Empowerment Act, No 53 of 2003
- Companies Act, No 71 of 2008
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Copyright Act 61 of 1978
- Electronic Communications and Transactions Act 25 of 2002
- Employment Equity Act 55 of 1998
- Income Tax Act 58 of 1962
- Intellectual Property Laws Amendments Act 38 of 1997
- Labour Relations Act 66 of 1995
- Non-profit Organisations Act 71 of 1997.
- Occupational Health and Safety Act 85 of 1993



- Prevention of Organised Crime Act 121 of 1998
- Protection of Personal Information Act, No 4 of 2013
- Protection of Businesses Act 99 of 1978
- Regional Services Councils Act 109 of 1985
- Sectional Titles Act 95 of 1986
- Short Term Insurance Act 53 of 1998
- Short-term Insurance Act no. 53 of 1998
- Skills Development Act 97 of 1998
- Skills Development Levies Act 9 of 1999
- The Co-operatives Act 14 of 2005
- The Fund-Raising Act 107 of 1978
- Trust Property Control Act 57 of 1988
- Unemployment Insurance Act 63 of 2001
- Unemployment Insurance Contributions Act 4 of 2002
- Value Added Tax Act 89 of 1991

Such records will be made available to only those individuals/entities authorised to request access to such records in terms of the particular legislation. Any other persons must follow the request for access of records procedure as outlined in this Manual.

5.5 Section 51(1)(e) – Subject and categories of records held by the company

Set out below is a number of categorised records that are, subject to access being denied, available in terms of PAIA. Please note that a requestor is not automatically allowed access to these records and a request for access to any of the records listed here may be refused in accordance with sections 62 to 69 of the Act.

Records	Subject
Companies Act Records	<ul style="list-style-type: none">• B-BBEE Compliance• Policies and Procedures• Codes of Conduct• Contracts and Agreements• Property Records• Legal Records• General Correspondence• Company and Share Registration Records• Statutory Records, inclusive of:<ul style="list-style-type: none">○ Documents of incorporation○ Memorandum and Articles of Association○ Documentation lodged with the Registrar of Companies○ Notices to members○ Minutes of Board of Directors meetings○ Resolutions of members○ Register of directors and officers



Records	Subject
	<ul style="list-style-type: none"> ○ Records relating to the appointment of directors/ auditor/ secretary/ public officer and other officers
Financial Records	<ul style="list-style-type: none"> ● Accounting records ● Annual Financial Statements ● Income Tax Returns ● VAT Returns ● Correspondence with South African Revenue Services (SARS) ● Management Accounts ● Accounting Records ● Banking Records ● Bank Statements ● Electronic banking records ● Asset Register ● Insurance ● Rental Agreements ● Invoices
Income Tax Records	<ul style="list-style-type: none"> ● Documents issued to employees for income tax purposes ● PAYE Records ● Records of payments made to SARS on behalf of employees ● Tax Clearance Certificate ● All other statutory compliances: <ul style="list-style-type: none"> - Value Added Tax - Skills Development Levies - Unemployment Insurance Fund - Workman's Compensation
Personnel Documents and Records	<ul style="list-style-type: none"> ● Employee Records <ul style="list-style-type: none"> ○ Letters of appointment ○ Employment contracts ○ Payroll records ○ Leave records ○ Correspondence with employees ○ Standard terms and conditions of employment ○ Disciplinary records ● Employment Equity Plan ● SETA records ● Disciplinary code ● Pension/Provident Fund records ● PAYE records ● Training records ● Training Manuals ● Policies
Client Records	<ul style="list-style-type: none"> ● Client database ● Client agreements ● Client files ● Client correspondence
Information Technology	<ul style="list-style-type: none"> ● Central Computer Repository documentation (e.g. backups, log files, audit trails, etc.) ● General correspondence ● Software licences
Insurance	<ul style="list-style-type: none"> ● General Insurance ● Professional Indemnity Insurance ● Public Liability Insurance
Marketing	<ul style="list-style-type: none"> ● Market Information ● Product Broches and Pitch Packs



Records	Subject
Supplier Records	<ul style="list-style-type: none">• Rental agreements• Non-Disclosure Agreements• Supplier Contracts

The above categories may be amended from time to time in accordance with new and revised legislation.

6 Request for access to information

In the event that a person or entity requires access to information as contemplated in the Act, all requests for information must be directed to the Information Officer at the address, fax number or electronic mail address of Pegasys provided in section 5.1 above.

Section 53 of the Act prescribes that the requester must use the prescribed form (as attached hereto) to make the request for access to a record. Should the Information Officer of Pegasys expressly allow a person or body to request access to information by written notice, the requester will not be required to use the prescribed form as determined by the Act.

In terms of section 25(2) states that:

1. If the request for access is granted, the notice in terms of subsection (1)(b) must state—
 - a) the access fee (if any) to be paid upon access;
 - b) the form in which access will be given; and
 - c) that the requester may lodge an internal appeal or an application with a court, as the case may be, against the access fee to be paid or the form of access 15 granted, and the procedure (including the period) for lodging the internal appeal or application, as the case may be.
2. If the request for access is refused, the notice in terms of subsection (1)(b) must—
 - a) state adequate reasons for the refusal, including the provisions of this Act relied upon;
 - b) exclude, from such reasons, any reference to the content of the record; and
 - c) state that the requester may lodge an internal appeal or an application with a court, as the case may be, against the refusal of the request, and the procedure (including the period) for lodging the internal appeal or application, as the case may be.

7 Access Request Procedure – Section 51(1)(e)

It is important to note that the successful completion and submission of an access request form does not automatically allow the requester access to the requested record. An application for access to a record is subject to certain limitations if the requested record falls within a certain category as specified within Part 3 Chapter 4 of the Act.



If it is reasonably suspected that the requester has obtained access to records through the submission of materially false or misleading information, legal proceedings may be instituted against such requester.

- a) The requester must use the prescribed form to make the request for access to a record. This must be made to the appointed designated person. This request must be made to the address, fax number or electronic mail address of the body concerned.
- b) Request for access to records of private body – **Appendix B** has been appended to the manual.
- c) The requester must provide sufficient detail on the request form to enable the head of the private body to identify the record and the requester. The requester should also indicate which form of access is required. The requester should also indicate if any other manner is to be used to inform the requester and state the necessary particulars to be so informed.
- d) The requester must identify the right that is sought to be exercised or to be protected and provide an explanation of why the requested record is required for the exercise or protection of that right.
- e) Take care to adequately describe the right which you are seeking to protect or enforce by means of the records requested. Please note that the courts have indicated that access to the records must be “necessary” for the exercise or protection of the right so stated.
- f) If a request is made on behalf of another person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the designated person of the private body.
- g) A public body may make a request for access to a record of a private body for the exercise or protection of any rights other than its rights, only if it is acting in the public interest.

8 Grounds for Refusal of Access to Records

The main grounds for refusal of a request for information are:

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;
2. Mandatory protection of the commercial information of a third party, if the record contains:
 - Trade secrets of that party;
 - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that party;
 - Information disclosed in confidence by a third party to Pegasys, if the disclosure could put that third party to a disadvantage in negotiations or commercial competition.
3. Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;



4. Mandatory protection of the safety of individuals and the protection of property;
5. Mandatory protection of records which could be regarded as privileged in legal proceedings;
6. The Commercial Activities of Pegasys which may include:
 - o Trade secrets of Pegasys;
 - o Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of Pegasys.

9 Availability of the Manual

A copy of the Pegasys Group's Information Manual is available to the public in electronic format and/or hard copy at the following locations;

- Pegasys' website (<http://www.pegasys.africa>)
- Pegasys Head Office (at the address listed under contact details of Pegasys).
- At the Human Rights Commission

The information manual is available on request for inspection during office hours at the offices of Pegasys as well as on request from the designated contact person referred to in this manual.



APPENDIX A Prescribed Fees - Section 51(1)(e)

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 a personal requester, must pay the required request fee.

The appointed designated person of the private body must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request.

After the designated person of the private body has made a decision on the request, the requester must be notified in the required form.

If the request is granted, then a further access fee must be paid for the search, reproduction, preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

The prescribed fees relating to a request to access information are as per Section 54(7), Section 54(2) and Section 54(7) of Regulation 11(3).

PLEASE NOTE THAT ALL PRICES LISTED BELOW ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)

1. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1.10 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 11(1) are as follows:
 - (a) For every photocopy of an A4-size page or part thereof R 1.10
 - (b) For every printed copy of an A4-size page or part thereof held on a computer or in an electronic or machine-readable form R 0.75
 - (c) For a copy in a computer-readable form on
 - (i) USB flash drive R 7.50
 - (ii) compact disc R 70.00
 - (d)
 - (i) For a transcription of visual images, for an A4-size page or part thereof R 40.00
 - (ii) For a copy of visual images R 60.00
 - (e)
 - (i) For a transcription of an audio record, for an A4-size page or part thereof R 20.00
 - (ii) For a copy of an audio record R 30.00



3. The request fee payable by the requester, other than a personal requester, referred to in Regulation 11(2) is R50.00

4. The access fees payable by a requester referred to in Regulation 11(3) are as follows:
 - (a) For every photocopy of an A4-size page or part thereof R 1.10
 - (b) For every printed copy of an A4-size page or part thereof held on a computer or in an electronic or machine-readable form R 0.75
 - (c) For a copy in a computer-readable form on
 - (i) USB flash drive R 7.50
 - (ii) compact disc R 70.00
 - (d)
 - (i) For a transcription of visual images, for an A4-size page or part thereof R 40.00
 - (ii) For a copy of visual images R 60.00
 - (e)
 - (i) For a transcription of an audio record, for an A4-size page or part thereof R 20.00
 - (ii) For a copy of an audio record R 30.00
 - (f) To search for and prepare the record for disclosure - R30,20 for each hour or part thereof reasonably required for such search and preparation

5. For the purposes of section 54(2) of the Act, the following applies:
 - (a) Six hours as the hours to be exceeded before a deposit is payable; and
 - (b) One third of the access fee is payable as a deposit by the requester.

6. The actual postage fee is payable when a copy of a record must be posted to a requester.



APPENDIX B Request Form for Access to Record of Private Body

In terms of (Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) [Regulation 10]

A. Particulars of private body

The Head (name of body):

B. Particulars of person requesting access to the record

- The particulars of the person who requests access to the record must be given below.*
- The address and/or fax number in the Republic to which the information is to be sent must be given.*
- Proof of the capacity in which the request is made, if applicable, must be attached.*

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

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

C. Particulars of person on 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.

Description of record or relevant part of the record: _____

Reference number, if available: _____

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 hereunder, state your disability and indicate in which form the record is required.

Disability: _____

Form in which record is required: _____

NOTES:

- a) *Compliance with your request 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 for the record, if any, will be determined partly by the form in which access is requested.*

Mark the appropriate box with an **X**.

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 file)

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 (flash drive 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 afore-mentioned 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 of20

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