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Ref: CM 125/2025

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Date: 15-Dec-2025 | 12:04 SAST

Adv Anthony Robin Brink

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Per email: anthonybrink.sa@gmail.com

Dear Adv Anthony Robin Brink

DECISION WITH REGARDS TO CONDUCTING AN ASSESSMENT IN TERMS OF SECTION 77H (1) OF PAIA READ WITH REGULATION 14(3) OF THE REGULATIONS RELATING TO THE PROMOTION OF ACCESS TO INFORMATION, 2021

1. Introduction

1.1 The Information Regulator (“the Regulator”) is an independent statutory body established in terms of section 39 of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). The Regulator is, among others, empowered to monitor and enforce compliance by public and private bodies with the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (“the Act”).

1.2 Section 77H (1) of the Act gives the Regulator powers to conduct an assessment upon request on whether a public or private body generally complies with the provisions of PAIA. Section 77H (2) of PAIA provides that the Regulator must conduct the assessment if it appears to be appropriate to conduct an assessment. In determining whether the assessment is appropriate, the Regulator is, in

accordance with section 77H(3)(a) of PAIA, read with Regulation 14(3), required to consider the nature of the issues required to be assessed and whether the response received from the Information Officer complies with the provisions of the Act, insofar as its policies and implementation procedures are concerned.

2. Request for an assessment of in terms of section 77h (1)

- 2.1 The Regulator acknowledges receipt of your request for assessment, received on **06 November 2025**, regarding the alleged non-compliance by the Judicial Service Commission (JSC) with the Promotion of Access to Information Act 2 of 2000 (PAIA).
- 2.2 In your submission, it is alleged that the JSC has failed to comply with its obligations under PAIA in multiple respects, including:
 - 2.2.1 failure to publish a PAIA manual as required by section 14 of the Act;
 - 2.2.2 failure to designate authorised officials to handle PAIA requests as required by section 17(1) ;
 - 2.2.3 allowing unauthorised persons to respond to PAIA requests, contrary to the provisions of the Act;
 - 2.2.4 unlawfully delaying responses to PAIA requests beyond the statutory timeframe without proper notice, justification, or communication of remedies to the requester; and
 - 2.2.5 refusing access to requested records on grounds not permitted under Chapter 4, Part 2 of PAIA; and failing to certify non-existent records as required by section 25(1)(b) of PAIA.
- 2.3 It is noted that your request further state that these actions constitute systemic and ongoing violations of section 11(1) of PAIA and section 32(1)(a) of the Constitution, resulting in the unlawful withholding of information of significant public interest concerning the operations of the JSC.

3. Action taken by The Regulator

- 3.1 On 02 December 2025, the Regulator issued a Form 14 notice to the Judicial Service Commission (JSC) regarding the decision to conduct an assessment in terms of section 77H (1) of PAIA read with Regulation 14(3) relating to the Promotion of Access to Information, 2021.
- 3.2 On 12 December 2025, the Regulator received a response from the Secretariat of the JSC, which advised as follows:
 - 3.2.1 The Office of the Chief Justice (OCJ) was established as a government department to support the Chief Justice in their capacity as Head of the Judiciary and Head of the Constitutional Court. **(Attached as annexure A).**
 - 3.2.2 One of the functions assigned to the OCJ is to provide secretariat support to the Judicial Service Commission, which is a constitutional body established in terms of Chapter 8 of the Constitution of the Republic of South Africa, 1996.
 - 3.2.3 The Secretariat of the JSC is comprised of officials from the OCJ, and the work performed by the Secretariat forms part of the programmes of the OCJ.
 - 3.2.4 Consequently, the Information Officer and Deputy Information Officers of the OCJ are also responsible for the processing of access to information requests relating to the JSC.
- 3.3 The JSC confirmed that the PAIA Manual of the Office of the Chief Justice has been duly published and that the Manual incorporates and governs PAIA-related matters applicable to the Judicial Service Commission.
- 3.4 The Regulator conducted a compliance assessment of National Departments between July and September 2023. Office of the Chief Justice was among the departments assessed during this period.
- 3.5 An assessment report containing the outcome of the compliance assessment was issued to the OCJ, requiring the implementation of recommendations and the submission of monthly progress reports.

3.6 The OCJ subsequently confirmed, with supporting proof, that the recommendations made by the Regulator in the assessment report were implemented.

4. Decision on Whether an Assessment Is Appropriate

4.1 After considering the request, the response received from the JSC, and the actions outlined in paragraph 3 above, the Regulator has determined as follows:

4.1.1 It is not necessary to proceed with a separate assessment at this stage, as the administration of the Judicial Service Commission, including its PAIA compliance obligations, falls under the Office of the Chief Justice.

4.1.2 The OCJ has developed and published a PAIA Manual in compliance with section 14 of PAIA. This Manual governs the processing of requests for access to records of the JSC. Accordingly, the issues raised in your request fall within the scope of the OCJ's existing PAIA Manual, and a separate assessment of the JSC as an independent department is not warranted.

4.1.3 Copies of the PAIA Manual and Assessment Report of the Office of the Chief Justice are attached for your information and reference.

5. Closure

Considering the above, the Regulator will proceed to close your request for assessment. Should you require any further information or assistance, please do not hesitate to contact our office.

Yours sincerely

DocuSigned by:



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Adv Makhwedi Makgopa-Madisa

ACTING EXECUTIVE: PAIA

Date:15-Dec-2025 | 12:04 SAST