

**SECTION 51 MANUAL  
PROMOTION OF ACCESS TO INFORMATION ACT**

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## INTRODUCTION

The Promotion of Access to Information Act, 2000 (the "Act") gives third parties the right to approach private bodies and the government to request information held by them, which is required in the exercise and/or protection of any rights. On request, the private body or government is obliged to release such information. This right to access information is subject to justifiable limitations, including:

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

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

This manual informs requestors of procedural and other requirements which a request must meet as prescribed by the Act.

### **Main Business**

Attorneys, notaries, conveyancers.

## **1. PARTICULARS IN TERMS OF THE SECTION 51 MANUAL**

### **Contact details**

**Head of the body:** Laetitia Knoetze

**Information Officer:** Laetitia Knoetze

**Postal address:**  
PO Box 3665  
Tyger Valley  
7536

**Street Address:**  
Unit 8  
Canal Edge 4  
Fountain Road  
Tyger Waterfront  
Bellville  
7530

Telephone number: 021 912 6002  
Email address: [lknoetze@klaw.co.za](mailto:lknoetze@klaw.co.za)  
Web address: [www.klaw.co.za](http://www.klaw.co.za)

## **2. THE SECTION 10 GUIDE ON HOW TO USE THE ACT**

This Guide has been compiled in terms of Section 10 of PAIA by the Human Rights Commission. It contains information required by a person wishing to exercise any right, contemplated by PAIA. It is available in all of the official languages. The Guide is available for inspection, inter alia, at the office of the offices of the Human Rights Commission at 29 Princess of Wales Terrace, cnr. York and St. Andrews Street, Parktown and on its website at [www.sahrc.org.za](http://www.sahrc.org.za).

Please direct any queries to:

### **The South African Human Rights Commission: PAIA Unit The Research and Documentation Department**

Postal address: Private Bag 2700  
Houghton  
2041  
Telephone: +27 11 484-8300  
Fax: +27 11 484-7146  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)  
E-mail: [PAIA@sahrc.org.za](mailto:PAIA@sahrc.org.za)

## **3. THE LATEST NOTICE IN TERMS OF SECTION 52(2) (IF ANY):**

At this stage no notice(s) has/have been published on the categories of records that are automatically available without a person having to request access in terms of PAIA.

## **4. RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION: SECTION 51(1)(d)**

Where applicable to our operations, records are also maintained in terms of other legislation. The below list contains some of the more frequent legislation that may require us to keep records. Unless disclosure is prohibited in terms of the legislation, regulations, contractual agreements or otherwise, these records shall be available for inspection in terms of the requirements and conditions of the Act, should such interested parties be entitled to such information. Access should be requested in accordance with the prescriptions of the Act.

- Administration of Estates Act 66 of 1965
- Arbitration Act 42 of 1965
- Auditing Professions Act 26 of 2005
- Basic Conditions of Employment Act 75 of 1997
- Businesses Act 71 of 1991
- Close Corporations Act 69 of 1984
- Companies Act 71 of 2008
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Competition Act 71 of 2008
- Community Schemes Ombud Service Act 9 of 2011
- Consumer Affairs (Unfair Business Practices) Act 71 of 1988
- Copyright Act 98 of 1978
- Currency and Exchanges Act 9 of 1933
- Customs and Excise Act 91 of 1964
- Debt Collectors Act 114 of 1998
- Deeds Registries Act 47 of 1937
- Designs Act 195 of 1993
- Electronic Communications Act 36 of 2005
- Electronic Communications and Transactions Act 25 of 2002
- Employment Equity Act 55 Of 1998
- Finance Act 35 of 2000
- Financial Advisory and Intermediary Services Act 68 of 1997
- Financial Intelligence Centre Act 38 of 2001
- Financial Relations Act 65 of 1976
- Financial Sector Regulation Act 9 of 2017
- Harmful Business Practices Amendment Act 23 of 1999
- Identification Act 68 of 1997
- Income Tax Act 58 of 1962
- Insider Trading Act 135 of 1998
- Insolvency Act 24 of 1936
- Insurance Act 18 of 2017
- Intellectual Property Laws Amendment Act 38 of 1997
- Labour Relations Act 66 of 1995
- Legal Practice Act 28 of 2014
- Long-term Insurance Act 52 of 1998
- Machinery and Occupational Safety Act 6 of 1983
- Medical Schemes Act 131 of 1998
- National Credit Act 34 of 2005
- National Road Traffic Act 93 of 1996
- National Environmental Protection Act 107 of 1998
- Occupational Health and Safety Act 85 of 1993
- Patents Act 57 of 1978
- Pension Funds Act 24 of 1956
- Post and Telecommunications-related Matters Act 44 of 1958
- Prevention of Organised Crime Act 121 of 1998
- Promotion of Access of Information Act 2 of 2000
- Protection of Personal Information Act 4 of 2013
- Road Transport Act 74 of 1977
- Sectional Titles Act 95 of 1986
- South African Reserve Bank Act 90 of 1989
- Short-term Insurance Act 53 of 1998
- Skills Development Act 97 of 1998
- Skills Development Levies Act 9 of 1999
- Stock Exchanges Control Act 1 of 1985
- Trade Marks Act 194 of 1993
- Transfer Duty Act 40 of 1949
- Unemployment Insurance Act 63 of 2001
- Unemployment Insurance Contributions Act 4 of 2002
- Value-Added Tax Act 89 of 1991

It is further recorded that the accessibility of documents and records may be subject to the grounds of refusal set out in this PAIA manual.

## 5. SUBJECTS AND CATEGORIES OF RECORDS HELD BY DE WAAL INC: SECTION 51(1)(e)

### **ADMINISTRATION**

- Correspondence
- Licenses
- Minutes of Management meetings
- Minutes of staff meetings

### **CONSTITUTION**

- List of directors
- Minute books and resolutions
- Power of attorney agreements
- Share register
- Shareholder's agreements
- Statutory registers
- Incorporation forms
- Memorandum and articles of association

### **DOCUMENTS RELATED TO LEGAL PROCEEDINGS**

### **FINANCIAL RECORDS**

- Accounting Records
- Annual Financial Statements
- Asset Register
- Banking details
- Bank Statements
- Inventory records
- Vouchers
- Tax returns
- VAT returns
- Returns related to employee taxes

### **LEGAL PRACTICES ACT**

- Fidelity Fund Certificates and application forms

### **HUMAN RESOURCES**

- Disciplinary records
- Employee code of conduct
- Employee contracts
- Personnel files
- Remuneration records and policies
- Staff recruitment policies
- Training records and material

### **INFORMATION TECHNOLOGY**

- Computer software support and maintenance agreements
- Software license agreements
- Agreements in respect of hardware
- Agreements with internet service providers

### **MISCELLANEOUS AGREEMENT**

### **OPERATIONS**

- Firm policies
- Production records
- Register of clients
- Agreements with suppliers
- Agreements with service providers

### **CLIENT RECORDS**

- Clients' files
- Client Mandates – records and evidence
- Billing information
- Trusts and related documents thereto
- Wills

### **SUPPLIER AND SERVICES RECORDS**

- Agreements with suppliers
- Agreements with service providers

## **COMMUNICATION**

- Correspondence with clients
- Correspondence to persons outside of the firm

### **6. RECORDS AUTOMATICALLY AVAILABLE WITHOUT HAVING TO MAKE A REQUEST IN THE PRESCRIBED FORM**

Records of a public nature, typically disclosed on our website, may be accessed without the need to submit a formal application.

Other non-confidential records, such as statutory records maintained at CIPC, may also be accessed without the need to submit a formal application, however, please note that an appointment to view such records still have to be made through the Information Officer.

### **7. THE REQUEST PROCEDURES**

#### **7.1 Form of request**

The requester must comply with the procedural requirements contained in the Act relating to the request for access to a record.

The requester must use the prescribed form, form C to make the request for access to a record. This must be made to the Information Officer. This request must be made to the address or electronic mail address as per the Contact details.

The requester must provide sufficient detail on the request form to enable the Information Officer 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.

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.

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 head of the private body.

The Information Officer will take reasonable steps, if the requester is not a personal requester, to inform a third to whom the requested record relates, in order for the third party to make submissions to the Information officer why the request should be refused, or where required, give written consent for the disclosure of the requested record.

#### **7.2 Fees**

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 Information Officer 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.

The fee that the requester must pay to a private body is R50. The requester may lodge an application to the court against the tender or payment of the request fee.

After the Information Officer 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 information officer shall withhold the record until the requester has paid the fees.

The Information Officer shall sever a record, if possible, and grant only access to that portion requested and which is not prohibited from being disclosed.

#### **7.3 Grounds for refusal**

A Private Body, such as this, is entitled to refuse a request for information. Potential reasons for refusal may include:

- Mandatory protection of the privacy of a third party which would involve the unreasonable disclosure of the personal information of that third party.
- Mandatory protection of commercial information of a third party if the record contains:
  - Trade secrets of the third party
  - Financial, commercial, scientific or technical information which disclosure could cause harm to the commercial or financial interests of the third party
  - Information disclosed to us in confidence if the disclosure of the information will put the third party at a disadvantage in negotiations or commercial competition.
- Mandatory protection of information if it is protected in terms of any agreement
- Mandatory protection of the safety of individuals and the protection of property.

- Mandatory protection of records which would be regarded as privileged in legal proceedings.
- Commercial activities of a Private Body such as us, which may include
  - Our trade secrets
  - Information which may put us at a disadvantage in negotiations
  - Any program or procedure protected by copyright

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

All request will be assessed on their own merits and in accordance with the applicable legal principles and legislation.

If a requested record cannot be found or does not exist, the Information officer shall notify the requester and such a notice shall be regarded as a decision to refuse access. If the record should later be found, the requester shall be given access in the manner stipulated in the prescribed form, unless the Information Officer has grounds to refuse access.

#### **7.4 Remedies**

##### **Internal remedies**

We do not have any internal appeal procedure and the decision made by the Information officer is final. If the requester is not satisfied with the answer provided by the Information Officer, then the requester must exercise such external remedies as are available.

##### **External remedies**

A requester that is dissatisfied by the decision of the Information Officer may, within 30 days of being informed of the decision, apply to a Court for relief.

For the purpose of this Act, the following courts have jurisdiction:

- Constitutional court
- High court
- A magistrate's court designated by the Minister of Justice

#### **8. AVAILABILITY OF THE MANUAL**

The manual is on our website and is also available for inspection during office hours at our offices free of charge. Copies are available from the SAHRC.

**FORM C**

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY  
(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:

**B. Particulars of person requesting access to the record**

- (a) The particulars of the person who requests access to the record must be given below.
- (b) The address and/or fax number in the Republic to which the information is to be sent must be given.
- (c) 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.

1 Description of record or relevant part of the record:

.....  
.....  
.....  
.....  
.....  
.....

2 Reference number, if available:

.....

3 Any further particulars of record:

.....  
.....  
.....  
.....  
.....

**E. Fees**

- |   |
|---|
| (a) A request for access to a record, other <i>than</i> a record containing personal information about yourself, will be processed only after a request fee has been paid.    |
| (b) You will be <i>notified</i> of the amount required to be paid as the request fee.   |
| (c) The fee payable for access to a record depends on the form <i>in which</i> access is required and the reasonable time <i>required</i> 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
Form in which record is required:	
Mark the appropriate box with an X.	
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.	

<b>1. If the record is in written or printed form:</b>			
<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
<b>2. If record consists of visual images</b> (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)			
<input type="checkbox"/>	view the images	<input type="checkbox"/>	copy of the images"
<input type="checkbox"/>		<input type="checkbox"/>	transcription of the images*



<b>3. If record consists of recorded words or information which can be reproduced in sound:</b>			
	listen to the soundtrack audio cassette		transcription of soundtrack* written or printed document
<b>4. If record is held on computer or in an electronic or machine-readable form:</b>			
	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? 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 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 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 .....20.....

SIGNATURE OF REQUESTER / PERSON ON  
WHOSE BEHALF REQUEST IS MADE