



Promotion of Access to Information Manual

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

PART 1 INTRODUCTION

1.1 The Promotion of Access to Information Act, Act 2 of 2000

03 February 2000 saw the enactment of the Promotion of Access to Information Act, 2 of 2000 (“the Act”), 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 this Act, the private or public body to which the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The Act sets out the requisite.

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.
- In a manner which balances the 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

TRADE LINK RETAIL SYSTEMS GROUP OF COMPANYS.

PART 2 CONTACT DETAILS

2.1 Information Officer:

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Deputy Information Officer:

Trisin Reddy

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2.2 GENERAL INFORMATION

2.2.1 Name of Private Body:

TRADE LINK RETAIL SYSTEMS (PTY) LTD

2.2.2 Head of Private Body:

Melissa Lopes

2.2.3 Postal Address:

Saturn Place, 38 Saturn Crescent
Linbro Park, Gauteng
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2.2.4 Telephone Number:

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PART 3 - DESCRIPTION OF GUIDE REFERRED TO IN SECTION 10: SECTION 51(1)(b)

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 Office of the Deputy Information Officer

Postal Address: Access to Information and Records Management,

Department of Justice and Constitutional Development, Private Bag x81, PRETORIA, 0001

Telephone: 012 357 8544 or 012 315 1715, E-mail: paia@justice.gov.za

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.

3.1 RECORDS REQUIRED IN TERMS OF LEGISLATION

A table of legislation setting out a description of the records of the company, which are available in accordance with certain legislation, is as follows:

- Labour Relations Act 66 of 1995
- Basic Conditions of Employment Act 75 of 1997
- Compensation for Occupational Injuries and Disease Act 130 of 1993
- Companies Act 61 of 1973 and Constitution of SA Act 108 of 1996
- Unemployment Insurance Act 63 of 2001 and Pension Funds Act 24 of 1956
- Value Added Tax Act 89 of 1991 and Income Tax Act 58 of 1962
- Skills Development Act 9 of 1999
- Occupational Health and Safety Act 85 of 1993
- National Minimum Wage Act 9 of 2018

Reference to the above-mentioned legislation shall include subsequent amendments to such Legislation and all relevant sections within such legislation in terms of which the Private Body holds records.

SUBJECTS AND CATEGORIES OF RECORDS HELD: SECTION 51(1)(d)

3.2 RECORDS OF THE PRIVATE BODY

- This clause serves as a reference to the records that the Private Body holds 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.

SUBJECTS AND CATEGORIES OF RECORDS HELD: SECTION 51(1)(e)

3.3 PRIVATE BODY DOCUMENTS AND RECORDS

These records include, but are not limited to, the records which pertain to the Private Body's own affairs.

Here are five examples of relevant legislation that outline record retention limits:

- **POPIA:** According to section 14, records of personal information must not be kept without consent any longer than is necessary for achieving the purpose for which the information was collected. Records may be retained for longer when the retention is required or authorised by law or contract. Therefore, understanding your retention requirements in other legislation is also important for POPIA compliance.
- **Companies Act, 2008:** According to section 24, there is a general rule for company records outlining that any documents, accounts, books, writing, records or other information that a company is required to keep in terms of the act and other public regulation must be kept for 7 years or longer as specified in other public regulation.
- **Tax Administration Act, 2011:** Section 29 provides that records, books of account, or documents that enable a person to observe the requirements of a tax act, are specifically required under a tax act and that enable the South African Revenue Service (SARS) to be satisfied that the person has observed these requirements should be kept for a period of 5 years following the submission of a tax return, or for 5 years after the relevant tax period. Therefore, companies, businesses and other organisations are obliged to keep their tax records to enable SARS to recreate that filing for at least 5 years after submission for that tax year.
- **Consumer Protection Act, 2008:** According to section 36, a person who conducts a promotional competition must retain all the records pertaining to all steps of that competition, including the information relating to the participants and their details, the rules, the prizes, the offers, marketing materials for a period of 3 years.
- **Basic Conditions of Employment Act, 1997:** Section 29 and 31 state that employee records outlining the particulars of an employee and their employment terms such as name, occupation, time worked, remuneration and any other prescribed information must be kept for 3 years after the termination of employment or from the date of the last entry in the record.

3.3.1. COMPANIES ACT RECORDS – Retention for 7 Years

- Documents of incorporation
- Memorandum and Articles of Association
- Records relating to the appointment of directors/ auditor/ secretary/ public officer and other officers.
- Share Register and other statutory registers

3.3.2 FINANCIAL DOCUMENTS AND RECORDS- Retention for 7 Years

- Regional Services Council records
- VAT and Tax, PAYE and Payroll, COIDA and UIF records
- Asset inventory, Invoices and Statements
- Credit notes and Current Account, Annual Financial Statements

- Rental/ Lease Agreements
- Budgets and Financial Transactions
- Insurance Information and Management Accounts
- Purchase and Order Information

3.3.3 PERSONNEL DOCUMENTS AND RECORDS - Retention for 5 Years

- Employment contracts
- Medical Aid and Pension Fund records
- Disciplinary records and Disciplinary code
- Salary and leave records, SETA and training records
- Information relating to Employee Sales Performance
- Information relating to Work-In-Progress
- Marketing and Future Strategies and Records

3.3.4 OPERATIONAL DOCUMENTS AND RECORDS - Retention for 5 Years

- Database of customers, Client and Customer Registry
- Credit Application forms and records
- Sales Records and reports
- Software licences and Suppliers Registry
- Brochures on Company Information
- Motor vehicle licenses and Drivers' licenses
- These records include, but are not limited to, the records which pertain to the Private Body's own affairs.

3.3.5 INFORMATION TECHNOLOGY RECORDS - Retention for 7 Years

- Customer database, Network Diagrams
- User Manuals and Licences (categories)
- Software programmes and applications
- Computer generated databases.

3.3.7 OTHER PARTY RECORDS

Personnel, customer, or Private Body records which are held by another party, as opposed to the records held by the Private Body itself. Records held by the Private Body pertaining to other parties, including without limitations, financial records, correspondence, contractual and transactional records, records provided by the other party, and records third parties have provided about contractors/suppliers.

PART 4 - GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

The main grounds for the Private Body to refuse a request for information relates to the –

- Mandatory protection of the privacy of a third party who is a natural person, who would involve the unreasonable disclosure of personal information of that natural person.
- Mandatory protection of the commercial information of a third party, if the record contains –
 - Trade secrets of that third party.
 - Financial, commercial, or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party.
 - Information disclosed in confidence by a third party to the Private Body if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- Mandatory protection of confidential information of third parties 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.

The commercial activities of the Private Body, which may include:

- Trade secrets of the Private Body.
- Financial, commercial, or technical information which disclosure of could likely cause harm to the financial or commercial interests of the Private Body.
- Information which, if disclosed could put the Private Body at a disadvantage in negotiations or commercial competition.
- A computer program which is owned by the Private Body, and which is protected by copyright.
- The research information of the Private Body or a third party, if its disclosure would disclose the identity of the Private Body, the researcher or the subject matter of the research and would place the research at a serious disadvantage.
- Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

5. REMEDIES AVAILABLE WHEN A PRIVATE BODY REFUSES A REQUEST FOR INFORMATION

5.1 INTERNAL REMEDIES

The Private Body does not have an internal appeal procedure. 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.

5.2 EXTERNAL REMEDIES

A requester that is 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.

6. REQUEST PROCEDURE SECTION 51(e)

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

6.2 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 and the postal or physical address, fax number or electronic mail address as stated in 2.1 or 2.2 above.

6.3 The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify –

6.3.1 The record or records requested.

6.3.2 The identity of the requester.

6.3.3 Which form of access is required if the request is granted.

6.3.4 The postal address or fax number of the requester.

6.4 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.

6.5 The Private Body 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.

- 6.6 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.
- 6.7 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.
- 6.8 If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 6.9 The requester must pay the prescribed fee, before any further processing can take place.

7. ACCESS TO RECORDS HELD BY THE PRIVATE BODY

- 7.1 Records held by the Private Body may be accessed by requests only once the prerequisite requirements for access have been met.
- 7.2 A requester is any person making a request for access to a record of the Private Body. There are two types of requesters:

7.2.1 PERSONAL REQUESTER

- 7.2.1.1 A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- 7.2.1.2 The Private Body 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

7.2.2 OTHER REQUESTER

- 7.2.2.1 This requester (other than a personal requester) is entitled to request access to information on third parties. However, the Private Body 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.

8. FEES

- 8.1 The Act provides for two types of fees, namely:
- 8.1.1 A request fee, which will be a standard fee: and

- 8.1.2 An access fee, which must be calculated by considering reproduction costs, search and preparation time and cost, as well as postal costs.
- 8.2 When the Information Officer receives the request, 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.
- 8.3 If the search of 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.
- 8.4 The information officer shall withhold a record until the requester has paid fees as indicated in Appendix 2.
- 8.5 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 arranging to make it available in the request form.
- 8.6 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.

9. DECISION

- 9.1 The Private Body 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.
- 9.2 The 30-day period with which the Private Body 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 the Private Body and the information cannot reasonably be obtained within the original 30-day period. The Private Body will notify the requester in writing should an extension be sought.

10. AVAILABILITY OF THE MANUAL

- 10.1 This manual is made available in terms of Regulation Number R.187 of 15 February 2002.
- 10.2 The manual of the Private Body may also be available on the website of the Private Body (if applicable).
- 10.3 The manual is also available for inspection at the offices of the company, free of charge, and copies are available with the South African Human Rights Commission.

Appendix 1

PRESCRIBED FORM TO BE COMPLETED BY A REQUESTER - FORM B

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 4]

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:

Telephone number:

Fax 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 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 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.

(Mark the appropriate box with an X.)

Disability: Form in which record is required:	Form in which record is required
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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.

1. If the record is in written or printed form:			
<input type="checkbox"/>	Copy of Record	<input type="checkbox"/>	Inspection of record
2. If record consists of visual images 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*
3. If record consists of recorded words or information which can be reproduced in sound:			
<input type="checkbox"/>	Listen to the soundtrack - Audio Tape	<input type="checkbox"/>	Transcription of soundtrack* written or printed document
4. If record is held on computer or in an electronic or machine-readable form:			
<input type="checkbox"/>	Printed copy of record*	<input type="checkbox"/>	Printed copy of information - derived from the record"
<input type="checkbox"/>		<input type="checkbox"/>	Copy in computer readable form* (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.)			
<input type="checkbox"/>	YES	<input type="checkbox"/>	NO

G. PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED

If the provided space is inadequate, please continue 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 protection of the 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.....

Appendix 2

REPRODUCTION FEES

Where requested document appears in the appendix 1 i.e., the Private Body 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 free for reproduction of the records in question.

Request fees:

Where a requester submits a request for access to information held by a 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).

Deposits

Where a private body 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 for disclosure will take more than 6 (six) hours, a deposit is payable by the requester. The amount of the deposit is equal to 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.

A company, a person who makes a request, the company is obligated to keep such records and report annually on any requests made. These requests are to be kept on a register for such purposes. The requestor forms and the details they provide there is processing of personal information.