

MANUAL  
(AS REQUIRED BY SECTION 51 OF ACT NO.  
2 OF 2000,PROMOTION OF ACCESS TO  
INFOMRATION ACT)  
("THE ACT")

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## 1 INTERPRETATION

In this document, clause headings are for convenience and shall not be used in its interpretation unless the context clearly indicates a contrary intention –

- 1.1 an expression which denotes -
  - 1.1.1 any gender includes the other genders;
  - 1.1.2 a natural person includes an artificial or juristic person and vice versa;
  - 1.1.3 the singular includes the plural and vice versa;
- 1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings -
  - 1.2.1 "this document" - this document together with all of its annexures, as amended from time to time;
  - 1.2.2 "the company" – ESI ATTORNEYS;
  - 1.2.3 "the Act" - Promotion of Access to Information Act No. 2 of 2000
- 1.3 any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the signature date, and as amended or substituted from time to time;
- 1.4 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this document;
- 1.5 where any term is defined within a particular clause other than this, that term shall bear the meaning ascribed to it in that clause wherever it is used in this document;
- 1.6 where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;
- 1.7 any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be;
- 1.8 the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific example/s;
- 1.9 insofar as there is a conflict in the interpretation of or application of this document and the Act, the Act shall prevail;
- 1.10 this document does not purport to be exhaustive of or comprehensively deal with every procedure provided for in the Act. A requester is advised to familiarise his/her/itself with the provisions of the Act before lodging any request with the company.

6.1.4 the company's document format manual.

6.2 The following records are automatically available to the general public and all employees

2 AIM

To facilitate the requests for access to records of the company as provided for in the Act.

### 3 DETAILS

Physical address: 4 Acorn House, Old Oak Office Park, 1 Edmar Street, Tygervalley

Postal address: PO Box 5122, Tygervalley, 7536

Website: [www.esilaw.co.za](http://www.esilaw.co.za)

Contact number: +27 (0)21 943 5111

### 4 CONTACT DETAILS OF THE HEAD OF THE COMPANY AND INFORMATION OFFICER

The head of the company is Zayaan Samuels. Her contact details are -

Telephone : (021) 943 5111

Email : [zayaan@esilaw.co.za](mailto:zayaan@esilaw.co.za)

The information officer is Robert Louw. His contact details are –

Telephone : (021) 943 5111

Email : [robert@esilaw.co.za](mailto:robert@esilaw.co.za)

### 5 HUMAN RIGHTS COMMISSION ("HRC") GUIDE

5.1 The HRC has compiled a guide, as contemplated in section 10 of the Act, containing information to assist any person who wishes to exercise any right as contemplated in the Act.

5.2 The contact details of the HRC are -

Postal address : Private Bag 2700, Houghton, 2041

Telephone : +27 11 484 8300

Telefax : +27 11 484 0582

Email : [www.sahrc.org.za](http://www.sahrc.org.za)

### 6 RECORDS THAT ARE AUTOMATICALLY AVAILABLE TO EITHER EMPLOYEES ONLY OR THE GENERAL PUBLIC AND EMPLOYEES

6.1 The following records are automatically available to all employees and need not be requested in accordance with the procedure outlined in paragraph 9 -

6.1.1 personnel records are available to the employee whose file it is;

- 6.1.4 the company's document format manual.
- 6.2 The following records are automatically available to the general public and all employees
  - 6.1.2 records of disciplinary hearings and related matters are available to the employee concerned;
  - 6.1.3 the company's policies and procedures manual; and need not be requested in accordance with the procedure outlined in paragraph 9 -
  - 6.2.1 the company's employment equity plan;
  - 6.2.2 the company's skills development plan.

## 7 RECORDS HELD BY THE COMPANY IN TERMS OF OTHER LEGISLATION AS CONTEMPLATED IN SECTION 51(1)(D) OF THE ACT

The following records are not automatically available without a request in terms of the Act -

- 7.1 all statutory returns -
  - 7.1.1 VAT;
  - 7.1.2 workmen's compensation;
  - 7.1.3 UIF;
  - 7.1.4 regional services levies; and
  - 7.1.5 skills development levies.
- 7.2 documents concerning compliance by the company, insofar as it may be necessary, with legal obligations in terms of the Legal Practice Act 28 of 2014, the Occupational Health and Safety Act No. 85 of 1993 and any other applicable environmental legislation.

## 8 OTHER TYPES OF RECORDS HELD BY THE COMPANY AS CONTEMPLATED IN SECTION 51(1)(C)

These records are not automatically available without a request in terms of the Act. A request in terms of this section is subject to section 63(1) of the Act, which provides that the head of a company must refuse a request for access to a record of the company if the disclosure of the record would involve the unreasonable disclosure of personal information about a third party including a deceased individual.

- 8.1 Human Resources department
  - 8.1.1 Personnel information including personal information, employment history and health records that the company may hold from time to time.
  - 8.1.2 Training and development information.
  - 8.1.3 General files containing information on employee benefits and employee recruitment and selection information.
- 8.2 Project management

- 8.2.1 Building plans.
- 8.2.2 Information generally related to projects conducted by the company from time to time.
- 8.3 Information technology
  - 8.3.1 Usage statistics.
  - 8.3.2 Equipment details.
  - 8.3.3 Costings of hardware and software.
- 8.4 Catering
  - 8.4.1 Function records and related costings.
  - 8.4.2 Stock sheets.
  - 8.4.3 List of suppliers.
- 8.5 Companies department and Company secretarial records.
- 8.6 Finance/Accounts department
  - 8.6.1 Financial records.
  - 8.6.2 A list of the company's creditors and debtors.
  - 8.6.3 Salary information.
  - 8.6.4 Bank account information.
  - 8.6.5 Fixed assets register.
- 8.7 Marketing department
  - 8.7.1 Company brochures and publications.
  - 8.7.2 Documents relating to public relation events.
  - 8.7.3 Company media releases.
- 8.8 Support services
  - 8.8.1 Delivery and collection sheets.
  - 8.8.2 List of suppliers.

## 9 PROCESS OF REQUESTING INFORMATION NOT AUTOMATICALLY AVAILABLE

- 9.1 A request shall be made on the prescribed form. A copy of the form is attached marked annexure "A" ("the prescribed form"). The form is also available from the website of the HRC, or the website of the Department of Justice and Constitutional Development at [www.doj.gov.za](http://www.doj.gov.za).

- 9.2 The prescribed form shall be submitted to the Information Officer at his contact details provided above.
- 9.3 The same procedure as set out in 9.1 and 9.2 applies if the requester is requesting information on behalf of another person or on behalf of a permanent employee of the company.
- 9.4 The head of the company, as soon as reasonably possible and within thirty days after the request has been received, shall decide whether or not to grant the request.
- 9.5 The requester will be notified of the decision of the head of the company or the request liaison officer in the manner indicated by the requester.
- 9.6 If the request is granted, the requester shall be informed by the head of the company or the request liaison officer in the manner indicated by the requester in the prescribed form.
- 9.7 Notwithstanding the foregoing, the company will advise the requester in the manner stipulated by the requester in the prescribed form of -
  - 9.7.1 the access fee to be paid for the information (in accordance with paragraph 10);
  - 9.7.2 the format in which access will be given; and
  - 9.7.3 the fact that the requester may lodge an appeal with a court of competent jurisdiction against the access fee charged or the format in which access is to be granted.
- 9.8 After access is granted, actual access to the record requested will be given as soon as reasonably possible.
- 9.9 If the request for access is refused, the head of the company or the Information officer shall advise the requester in writing of the refusal. The notice of refusal shall state -
  - 9.9.1 adequate reasons for the refusal;
  - 9.9.2 that the requester may lodge an appeal with a court of competent jurisdiction against the refusal of the request (including the period) for lodging such an appeal.
- 9.10 Upon the refusal by the head of the company or the request liaison officer, the deposit paid by the requester will be refunded.
- 9.11 If the head of the company or the request liaison officer fails to respond within thirty days after a request has been received, it is deemed, in terms of section 58 read together with section 56(1) of the Act, that the head of the company or the request liaison officer has refused the request.
- 9.12 The head of the company may decide to extend the period of thirty days ("original period") for another period of not more than thirty days if -
  - 9.12.1 the request is for a large number of records;
  - 9.12.2 the search for the records is to be conducted at premises not situated in the same town or city as the head office of the company;

- 9.12.3 consultation among divisions or departments, as the case may be, of the company is required;
- 9.12.4 the requester consents to such an extension in writing; and
- 9.12.5 the parties agree in any other manner to such an extension.
- 9.13 Should the company require an extension of time, the requester shall be informed in the manner stipulated in the prescribed form of the reasons for the extension.
- 9.14 The requester may lodge an appeal with a court of competent jurisdiction against any extension or against any procedure set out in this section.
- 10 FEES PAYABLE
- 10.1 The fees for reproduction of a record as referred to in section 52(3) are as follows -
- |        |  |        |
|--------|--|--------|
| 10.1.1 | for every photocopy of an A4 size page or part thereof                   | R1,10  |
| 10.1.2 | for every printed copy of an A4-size page or part thereof                | R0,75  |
| 10.1.3 | for a copy of a compact disc   | R70,00 |
| 10.1.4 | for a transcript of visual images for an A4 size page or part thereof    | R40,00 |
| 10.1.5 | for a copy of visual images  | R60,00 |
| 10.1.6 | for a transcript of an audio record, for an A4-size page or part thereof | R20,00 |
| 10.1.7 | for a copy of an audio record  | R30,00 |
- 10.2 The request fee payable by a requester, other than a personal requester is R50,00
- 10.3 If the head of the company or if the request liaison officer is of the opinion that six hours will be exceeded to search, reproduce and/or prepare the information requested, a deposit is payable equal to one-third of an amount of R30 for each hour or part thereof, exceeding the six hours.
- 11 INFORMATION OR RECORDS NOT FOUND
- 11.1 If all reasonable steps have been taken to find a record, and such a record cannot be found or if the records do not exist, then the head of the company or the request liaison officer shall notify the requester, by way of an affidavit or affirmation, that it is not possible to give access to the requested record.
- 11.2 The affidavit or affirmation shall provide a full account of all the steps taken to find the record or to determine the existence thereof, including details of all communications by the head of the company or the request liaison officer with every person who conducted the search.
- 11.3 The notice, as set out in 11.1, shall be regarded as a decision to refuse a request for access to the record concerned for the purposes of the Act.

- 11.4 If the record in question should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form unless access is refused by the head of the company or the request liaison officer.
- 11.5 The attention of the requester is drawn to the provisions of Chapter 4 of Part 3 of the Act in terms of which the company may refuse, on certain specified grounds, to provide information to a requester.

## 12 INFORMATION REQUESTED ABOUT A THIRD PARTY

- 12.1 Section 71 of the Act makes provision for a request for information or records about a third party.
- 12.2 In considering such a request, the company will adhere to the provisions of sections 71 to 74 of the Act.
- 12.3 The attention of the requester is drawn to the provisions of Chapter 5 of Part 3 of the Act in terms of which the company is obliged, in certain circumstances, to advise third parties of requests lodged in respect of information applicable to or concerning such third parties. In addition, the provisions of Chapter 2 of Part 4 of the Act entitle third parties to dispute the decisions of the head of the company or the request liaison officer by referring the matter to the High Court.

## 13 UPDATING OF MANUAL

The company may update this manual every six months or at such intervals as may be necessary.

## APPLICATION FORM

**Request for Access to Record of Private Body**  
Section 53(1) of the Act

### Regulation 10

#### A. Particulars of private body

The Head of the organisation: \_\_\_\_\_

Address: \_\_\_\_\_

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

Notes:

- Please give the particulars of the person who is requesting access to the record.



- Please state the address and/or fax number in the Republic to which the information is to be sent.
- If applicable, attach proof of the capacity in which the request is made.

Full names and surname: \_\_\_\_\_ Identity number: \_\_\_\_\_ Postal address: \_\_\_\_\_

Telephone no: \_\_\_\_\_ Fax no: \_\_\_\_\_

E-mail address: \_\_\_\_\_

If this application is being made on behalf of another person, state the capacity in which you are making it: \_\_\_\_\_

### **Particulars of person on whose behalf the request is made**

Note: this needs to be completed only if the request for information is being made on behalf of another person.

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

### **Particulars of record**

Notes:

- Provide full particulars of the record to which access is requested, including a reference number (if you know of one) which will help us to locate the record.
- If there is not enough space on this form for all the particulars, write the remaining particulars on a separate sheet of paper, sign it, and attach it to this form.

1. Description of the record or relevant part of the record:

\_\_\_\_\_

2. Reference number, if available: \_\_\_\_\_

3. Any further particulars of record: \_\_\_\_\_

### **Fees**

Notes:

- 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.
- You will be notified of the amount to be paid as the request fee.
- The fee payable for access to a record depends on the form in which access is required and the reasonable time to search for and prepare a record.
- If you qualify for exemption from payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

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### Form of access to record

If you have a disability which prevents you from reading, viewing or listening to the record in any of the forms of access listed in sections 1 to 4 hereunder, please state your disability and indicate the form in which you require the record:

Disability: \_\_\_\_\_

Notes:

- Compliance with your request in the specified form may depend on the form in which the record is available.
- Access in the form requested may be refused in certain circumstances, in which case you will be informed if access will be granted in another form.
- The fee payable for access to the record will partly be determined by the form in which access is requested.

Mark the appropriate box with an X:

If the record is in written or printed form:

Copy of the record \_\_\_ Inspection of the record \_\_\_

If the record consists of visual images (including photographs, slides, video recordings, computer-generated images, sketches etc.):

View the images \_\_\_ Copy of the images \_\_\_ Transcription of the images \_\_\_

If the record consists of recorded words or information which can be reproduced in sound:

Listen to soundtrack (audio cassette) \_\_\_ Transcription of soundtrack (written or printed) \_\_\_

If the record is held on a computer, or in electronic or machine-readable form:

Printed copy of record \_\_\_ Printed copy of information derived from the record \_\_\_

Copy in machine-readable form \_\_\_

### **Particulars of right to be exercised or protected**

If the space provided is not adequate, please continue on a separate sheet, sign it, and attach it to this form.

1. Indicate which right is to be exercised or protected:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Explain why you need the requested record to exercise or protect the aforementioned right: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

### **H. Notice of decision regarding request for access**

You will be notified in writing whether your application has been approved or denied. If you wish to be informed in some other manner, please specify it and give details to enable us to comply with your request:

How would you prefer to be informed of our decision regarding your request for access to the record?

\_\_\_\_\_

SIGNED AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20 \_\_\_\_\_

SIGNATURE OF REQUESTER: \_\_\_\_\_