

MANUAL

OF

SDK CHARTERED ACCOUNTANTS (SA)

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

1. INTRODUCTION

1.1 The Promotion of Access to Information Act, No. 2 for 2000 (“*the Act*”) was enacted on 3 February 2000, 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 the Act, the body to whom the request is made is obliged to release the information, **except where the Act expressly provides that the information may or must not be released.** The Act sets out the requisite procedural issues attached to such request.

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;

And in a manner which balances that 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 SDK Chartered Accountants (SA).

Wherever reference is made to a “document” or “record”, it shall include such documents or records that are stored on a computer or in any form of electronic format (precedent included).

PART I

2. CONTACT DETAILS

NAME OF PARTNERSHIP: SDK CHARTERED ACCOUNTANTS (SA)

PRACTICE NUMBER: 902047A

POSTAL ADDRESS: P O Box 1304, Durbanville, 7551

PHYSICAL ADDRESS: 22B Church Street, Durbanville, 7550

TELEPHONE NUMBER: 021-9704600

FAX NUMBER: 021-9756780

E-MAIL ADDRESS: info@sdkca.co.za

WEBSITE ADDRESS: www.sdkca.co.za

INFORMATION OFFICER: Daniel Johannes Smit

HEAD OF PRIVATE BODY: Daniel Johannes Smit

PART II

3. GUIDE TO SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The Guide is available from:

The South African Human Rights Commission
PAIA UNIT (The Research and documentation department)
Private Bag X2700, Houghton, 2041
Telephone number: 011-4848300
Facsimile number: 011-4840582
Website: www.sahrc.org.za
E-mail Address: PAIA@sahrc.org.za

PART III

3.1 RECORDS OF THE PRIVATE BODY

This clause serves as a reference to the records that the Private Body holds in order to facilitate a request in terms of the Act.

The information is classified and grouped together 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 or as provided for in the Act.

The head of the private body may, in addition and on a voluntary basis, also publish notices in terms of Section 52(2) of the Act regarding categories of records which are available without a person having to request access in terms of the Act.

3.2 PRIVATE BODY DOCUMENTS AND RECORDS

3.21 FINANCIAL DOCUMENTS AND RECORDS

- VAT records
- TAX records
- PAYE records
- UIF records
- Stock records
- Asset inventory
- Invoices
- Credit notes
- Cheque account records and statements
- Bank Statements
- Cash records
- Annual Financial Statements
- Miscellaneous financial documents and records

3.2.2 HUMAN RESOURCES DOCUMENTS AND RECORDS

Personal records provided by employees and other records including:

- Employment contracts / Letters of appointment
- Curriculum vitae
- Remuneration records / salary advice slips
- Leave records
- Disciplinary records, procedures and records
- Sick leave records
- Records relating to deductions statutory or otherwise
- Identification records

“Employees” refers to any person who works for, or provided services to or on behalf of the Private Body, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of the Private Body. This includes without limitation, directors, permanent and limited duration staff from time to time.

3.2.3 INFORMATION TECHNOLOGY RECORDS

- Software licences
- Software programmes

Software applications
Telephone exchange equipment

3.24 **RECORDS REQUIRED IN TERMS OF LEGISLATION**

A list of certain legislation setting out a description of the records of the Private Body which are available in accordance with such legislation, is as follows:

Labour Relations Act 66 of 1995
Employment Equity Act 55 of 1998
Basic Conditions of Employment Act 75 of 1997
Unemployment Insurance Act 63 of 2001
South African Reserve Bank Act 90 of 1989
Value Added Tax Act 89 of 1991
Skills Development Act 9 of 1999
Pension Funds Act 24 of 1956
Income Tax Act 58 of 1962
Compensation for Occupational Injuries and Diseases Act 130 of 1993
Customs & Excise Act 91 of 1964

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.

3.2.5 **OTHER PARTY RECORDS**

Employee, customer or Private Body records which are held by another party (e.g. auditor), as opposed to the records held by the Private Body itself;

Records held by the Private Body pertaining to other parties, including without limitation, financial records, correspondence, contractual and transactional records, records provided by the other party, and records third parties have provided.

PART IV

4. GROUND FOR REFUSAL OF ACCESS TO RECORDS

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

- 4.1 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;
- 4.2 Mandatory protection of the commercial information of a third party, if the record contains -
 - Trade secrets of that third party;

- Financial, commercial, scientific 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;
- 4.3 mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- 4.4 mandatory protection of the safety of individuals and the protection of property;
- 4.5 mandatory protection of records which would be regarded as privileged in legal proceedings;
- 4.6 the commercial activities of the Private Body, which may include –
- trade secrets of the Private Body;
 - financial, commercial, scientific 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.
- 4.7 the research information of the Private Body of 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;
- 4.8 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. As such, the decision made by the information officer is final, and requests 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 refusal to disclose information, may within 30 days of notification of the decision, apply to a relevant Court for relief.

Likewise, a third party 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

- 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 at the postal or physical address, fax number or electronic mail address as stated in 2. above.
- 6.3 The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify –
 - The record or records requested;
 - The identity of the requester;
 - Which form of access is required, if the request is granted;
 - 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 state 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

A personal requester is a requester who is seeking access to a record containing personal information about the requester.

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

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, namely:

- A request fee, which will be a standard fee; and
- An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.

8.2 When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed fee (if any), before any processing of the request.

8.3 If the search for 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 the 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 making arrangements 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

The manual is made available in terms of Regulation Number R. 187 of the Promotion of Access to Information Act, No. 2 of 2000.

APPENDIX 1

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 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:.....
.....
.....

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 to 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"/> 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 cassette)	<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"/> 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

APPENDIX 2

AN EXPLANATORY NOTE ON FEES TO BE CHARGED BY A PRIVATE BODY WHEN GRANTING A REQUEST FOR ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000.

The fees chargeable by private bodies are contained in Part III of Annexure "A" of the Regulations. A copy of Part III is attached for your convenience. The present charges are as follows:

1. Copies of a manual

Should an individual require a copy of the private body's manual, a fee of R1,10 is chargeable for every photocopy of an A4 page or part thereof.

2. Reproduction fees¹

Reproduction fees apply to obtaining copies or transcriptions of information which is automatically available from the private body. The fees are listed in paragraph 2 of Part III of Annexure "A" to the Regulations.

3. Access fees²

Access fees are chargeable for copies or transcriptions of information requested under this Act. The fees are listed in paragraph 4 of Part III of Annexure "A" to the Regulations.

4. Other fees

- 4.1 A request fee³ of R50,00 is payable by a requester who is seeking access to a record containing information which is not personal to the requester. See paragraph 6 of Part 1 of this Work.
- 4.2 A search fee⁴ may be charged at a rate of R30,00 per hour or part thereof for searching and preparing the record for disclosure provided such time was reasonably required for that purpose.
- 4.3 If the request is not limited to records containing information which is personal to the requester and if the head of the private body is of the opinion that the time taken to give effect to the request will exceed six hours the requester can be called upon to pay a deposit of not more than one third of an estimate of the access fee which will become payable.⁵
- 4.4 If a copy of a record is posted to a requester, the requester is obliged to pay the actual postage payable.

1 Section 52(3) and Regulation 1(1).

2 Section 54(7) and Regulation 11(3).

3 Section 54(1) and Regulation 11(2).

4 Annexure "A", Part III, Item 4(1)(f).

5 Section 54(2).

PART III
FEES IN RESPECT OF PRIVATE BODIES

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:

	R
(a) For every photocopy of an A4-size page or part thereof.....	1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form.....	0,75
(c) For a copy in a computer-readable form on—	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof..	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof.....	20,00
(ii) For a copy of an audio record	30,00

3. The request fee payable by a 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:

	R
(1) (a) For every photocopy of an A4-size page or part thereof.....	1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form.....	0,75
(c) For a copy in a computer-readable form on—	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof.....	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof.....	20,00
(ii) For a copy of an audio record	30,00
(f) To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.	

(2) For 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.

(3) The actual postage is payable when a copy of a record must be posted to a requester.