

MANUAL IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, ACT 2 OF 2000

1. In this document:-

1.1. 'Act [the]': Promotion of Access to Information Act, Act 2 of 2000

1.2. 'Head of the Private Body': As per annexure 'A'.

2. Preamble

2.1. The Head of the Private Body hereby makes the manual in terms of the Act available as per the requirements of section 50 of the Act.

3. Availability

3.1. This manual is available as follows:-

3.1.1. As per the Private Body's website on:

www.erasmusmotaung.co.za

3.1.2. At the reception of the Private Body being the principal place of business of the Private Body as per the details recorded in

annexure 'B' hereto for public inspection during the following business hours: Mondays – Thursdays 08h00 to 16h30 and Fridays 08h00 – 15h00;

3.1.3. To any person upon request and upon payment of any reasonable fee; and

3.1.4. To the Information Regulator upon request.

4. **Right of access to records of private bodies**

4.1. A requester must be given access to any record of a private body if –

4.1.1. that record is required for the exercise or protection of any rights;

4.1.2. that person complies with the procedural requirements in this Act relating to a request for access to that record; and

4.1.3. access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

4.2. In addition to the requirements referred to in subsection (1), when a public body, referred to in paragraph (a) or (b) (i) of the definition of 'public body' in

section 1, requests access to a record of a private body for the exercise or protection of any rights, other than its rights, it must be acting in the public interest.

- 4.3. A request contemplated in subsection (1) includes a request for access to a record containing personal information about the requester or the person on whose behalf the request is made.

5. **General requirements as per section 51(1)(a) of the Act**

- 5.1. The details of the Private Body as per section 51(1)(a)(i) are recorded in annexure 'B' hereto.

6. **Access to the South African Human Rights Commission's Guide**

- 6.1. The South African Human Rights Commission compiled a guide explaining to the public on how to exercise rights in terms of this Act and the Protection of Personal Information Act, 2013.
- 6.2. The guide can be requested via form 1 attached hereto, as **annexure 'C'**, and emailed to the email address as recorded thereon.

7. **Notice in terms of section 52(2) on the categories of the Private Body which are available without a person having to request access in terms of the Act:**

7.1. Categories of the Private Body which are available without a person having to request access according to the Act are as recorded in **annexure 'D'** hereof.

8. **Records of the Private Body which are available in accordance with any other legislation.**

8.1. Such records are referred to in **annexure 'E'** hereto.

9. **Records that will incur an attendance cost and costs of copies**

9.1. Such records are listed at **annexure 'F'** hereto.

10. **Process to request access to a record from the Private Body**

10.1. Submit the form 2 attached hereto to the Head of the Private Body at emil@em.law.za , as per **annexure 'G'** hereto.

10.2. Allow a week for a response, which will be in line with form 2 hereto.

10.3. We will then provide the outcome of the process and the fees payable as per form 3 hereto.

11. **Description of the subjects on which the Private Body holds records and the categories of such records held in terms of each subject.**

11.1. A list of subjects of records held by the Private Body are recorded in annexure 'H'.

12. **Access to Personal Information**

12.1. A Data Subject, having provided adequate proof of identity, has the right to:

12.1.1. request a Responsible Party to confirm, free of charge, whether or not the Responsible Party holds Personal Information about the Data Subject; and

12.1.2. request from a Responsible Party the record or a description of the Personal Information about the Data Subject held by the Responsible Party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information:

12.1.2.1. within a reasonable time;

12.1.2.2. at a prescribed fee, if any;

12.1.2.3. in a reasonable manner and format; and

12.1.2.4. in a form that is generally understandable.

12.2. If, in response to a request in terms of subsection (1), Personal Information is communicated to a Data Subject, the Data Subject must be advised of the right in terms of section 24 to request the correction of information.

12.3. If a Data Subject is required by a Responsible Party to pay a fee for services provided to the Data Subject in terms of subsection (1) (b) to enable the Responsible Party to respond to a request, the Responsible Party:

12.3.1. must give the applicant a written estimate of the fee before providing the services; and

12.3.2. may require the applicant to pay a deposit for all or part of the fee.

12.4.

- 12.4.1. A Responsible Party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
- 12.4.2. The provisions of section 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
- 12.4.3. If a request for access to Personal Information is made to a Responsible Party and part of that information may or must be refused in terms of subsection (4) (a), every other part must be disclosed.

13. **Compliance with the Protection of Personal Information Act**

13.1. **Purpose of the processing**

- 13.1.1. Description of the Data Subjects and of the categories of information relating thereto.

13.1.2. Recipients or categories of recipients to whom the Personal Information may be supplied.

13.1.3. Planned transborder flows of Personal Information

13.1.4. A general description allowing a preliminary assessment of the suitability of the information security measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information which is to be processed.

14. **Grounds for refusal of access to records**

14.1. A request for access to information may be refused by the Private Body on the following grounds:

14.1.1. If its disclosure would involve the unreasonable disclosure of Personal Information about a third party, including a deceased individual;

14.1.2. Trade secrets of a third party;

14.1.3. Financial, commercial, scientific or technical information, other than trade secrets of a third party, the disclosure of which will be

likely to cause harm to the commercial or financial interests of the third party;

14.1.4. Information supplied in confidence by a third party and the disclosure thereof would reasonably be expected to put that third party at a disadvantage in contractual or other negotiations;

14.1.5. To prejudice that third party in commercial competition.

14.2. Disclosure of such information would constitute an action for breach of a duty of confidence owed to a third party and in terms of any agreement;

14.3. A record of a body if its disclosure would likely to prejudice or impair:

14.3.1. the security of:

14.3.1.1. A building, structure or system including, but not limited to, a computer or communication system;

14.3.1.2. A means of transport; or

14.3.1.3. Any other property; or

14.3.2. Methods, systems, plans or procedures for the protection of –

14.3.2.1. An individual in accordance with a witness protection scheme;

14.3.2.2. The safety of the public, or any part of the public; or

14.3.2.3. The security of property contemplated in subparagraphs 13.3.1.1, 13.3.1.2 or 13.3.1.3.

14.4. If the record is privilege from production in legal proceedings unless the person entitled to the privilege has waived the privilege.

14.5. Trade secrets of a Private Body is a computer program, as defined in section 1 (1) of the Copyright Act 1978 and by the Private Body, except insofar as it is required to give access to a record to which access is granted in terms of this Act.

14.6. About research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose:

14.6.1. The third party;

14.6.2. A person that is or will be carrying out the research on behalf of the third party; or

14.6.3. The subject matter of the research, to serious disadvantage.

15. **Circumstances in which the Private Body will make the information available upon request and in compliance with the Act**

15.1. The following circumstances the Private Body will make the requested information available:

15.1.1. information about an individual who has consented in terms of section 72 or otherwise in writing to its disclosure to the requester concerned;

15.1.2. already publicly available;

15.1.3. that was given to the private body by the individual to whom it relates and the individual was informed by or on behalf of the private body, before it is given, that the information belongs to a class of information that would or might be made available to the public;

15.1.4. about an individual's physical or mental health, or well-being, who is under the care of the requester and who is-

15.1.4.1. under the age of 18 years; or

15.1.4.2. incapable of understanding the nature of the request;

and if giving access would be in the individual's best interests;

15.1.5. about an individual who is deceased and the requester is –

15.1.5.1. the individual's next of kin; or

15.1.5.2. making the request with the written consent of the individual's next of kin; or

15.1.6. about an individual who is or was an official of a private body and which relates to the position or functions of the individual, including, but not limited to-

15.1.6.1. the fact that the individual is or was an official of that private body;

15.1.6.2. the title, work address, work phone number and other similar particulars of the individual;

15.1.6.3. the classification, salary scale or remuneration and responsibilities of the position held or services performed by the individual; and

15.1.6.4. the name of the individual on a record prepared by the individual in the course of employment.

15.2. A record may not be refused if it consist of information about:

15.2.1. a third party who has consented in terms of section 72 or otherwise in writing to its disclosure to the requester concerned;

15.2.2. the results of any product or environmental testing or other investigation supplied by a third party or the results of any such testing or investigation carried out by or on behalf of a third party and its disclosure would reveal a serious public safety or environmental risk.

15.3. For the purposes of subsection (2) (b), the results of any product or environmental testing or other investigation do not include the results of

preliminary testing or other investigation conducted for the purpose of developing methods of testing or other investigation.

- 15.4. A record may not be refused if the information contains results of any product or environmental testing or other investigation supplied by a private body or the results of any such testing or investigation carried out by or on behalf of a private body and its disclosure would reveal a serious public safety or environmental risk. This includes any results of any product or environmental testing or other investigation.

16. **Access to health or other records**

- 16.1. If the head of a private body who grants, in terms of section 50, a request for access to a record provided by a health practitioner in his or her capacity as such about the physical or mental health, or well-being:

16.1.1. of the requester; or

16.1.2. if the request has been made on behalf of the person to whom the record relates, of that person,

(in this section, the requester and person referred to in paragraphs (a) and (b), respectively, are referred to as the "relevant person"), is of the opinion

that the disclosure of the record to the relevant person might cause serious harm to his or her physical or mental health, or well-being, the head may, before giving access in terms of section 60, consult with a health practitioner who, subject to subsection (2) has been nominated by the relevant person.

16.2. If the relevant person is:

16.2.1. Under the age of 16 years, a person having parental responsibilities for the relevant person must make the nomination contemplated in subsection (1); or

16.2.2. Incapable of managing his or her affairs, a person appointed by the court to manage those affairs must make that nomination.

16.3.

16.3.1. If, after being given access to the record concerned, the health practitioner consulted in terms of subsection (1) is of the opinion that the disclosure of the record to the relevant person, would be likely to cause serious harm to his or her physical or mental health, or well-being, the head may only give access to the record if the requester proves to the satisfaction of the head that adequate provision is made for such counselling or arrangements as are

reasonably practicable before, during or after the disclosure of the record to limit, alleviate or avoid such harm to the relevant person.

- 16.3.2. Before access to the record is given to the requester, the person responsible for such counselling or arrangements must be given access to the record.

17. **Correction of Personal Information**

- 17.1. A Data Subject may, in the prescribed manner, request a Responsible Party to:

- 17.1.1. correct or delete Personal Information about the Data Subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or

- 17.1.2. destroy or delete a record of Personal Information about the Data Subject that the Responsible Party is no longer authorized to retain in terms of section 14.

- 17.2. On receipt of a request in terms of subsection (1) a Responsible Party must, as soon as reasonably practicable:

- 17.2.1. correct the information;
 - 17.2.2. destroy or delete the information;
 - 17.2.3. provide the Data Subject, to his or her satisfaction, with credible evidence in support of the information; or
 - 17.2.4. where agreement cannot be reached between the Responsible Party and the Data Subject, and if the Data Subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
- 17.3. If the Responsible Party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the Data Subject in question, the Responsible Party must, if reasonably practicable, inform each person or body or Responsible Party to whom the Personal Information has been disclosed of those steps.
- 17.4. The Responsible Party must notify a Data Subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

18. **Records that cannot be found or do not exist**

18.1. If:

18.1.1. all reasonable steps have been taken to find a record requested;
and

18.1.2. there are reasonable grounds for believing that the record-

18.1.2.1. is in the public body's possession but cannot be found;
or

18.1.2.2. does not exist,

the information officer of a public body must, by way of affidavit or affirmation, notify the requester that it is not possible to give access to that record.

18.2. The affidavit or affirmation referred to in subsection (1) must give a full account of all steps taken to find the record in question or to determine whether the record exist, as the case may be, including all communications with every person who conducted the search on behalf of the information officer.

18.3. For the purposes of this Act, the notice in terms of subsection (1), the record in question is found, the requester concerned must be given access to the record unless access is refused on grounds for refusal contemplated in Chapter 4 of this Part.

19. **Form of request**

19.1. A request for access to a record of a private body must be made in the prescribed form to the private body concerned at its address, fax number or electronic mail address.

19.2. The form for a request for access prescribed for the purposes of subsection (1) must at least require the requester concerned –

19.2.1. To provide sufficient particulars to enable the head of the private body concerned to identify –

19.2.1.1. The record or records requested; and

19.2.1.2. The requester;

19.2.2. To indicate which form of access is required;

- 19.2.3. To specify a postal address or fax number of the requester in the Republic;
- 19.2.4. To identify the right the requester is seeking to exercise or protect and provide an explanation of why the requested record is required for the exercise or protection of that right;
- 19.2.5. If, in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, to state that manner and the necessary particulars to be so informed; and
- 19.2.6. If the request is made on behalf of a person, to submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the head.

20. **Fees**

20.1. The head of a private body to whom a request for access is made must by notice require the requester to pay the prescribed request fee (if any), before further processing the request.

20.2. If-

20.2.1. The search for a record of a private body in respect of which a request for access by a requester has been made; and

20.2.2. The preparation of the record for disclosure (including any arrangements contemplated in section 29 (2) (a) and (b) (i) and (ii) (aa),

would, in the opinion of the head of the private body concerned, require more than the hours prescribed for this purpose for requesters, the head must by notice require the requester to pay as a deposit the prescribed portion (being not more than one third) of the access fee which would be payable if the request is granted.

20.3. The notice referred to in subsection (1) or (2) must state:

20.3.1. the amount of the deposit payable in terms of subsection (2), if applicable;

20.3.2. that the requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the request fee in terms of subsection (1), or the tender or payment of a deposit in terms of subsection (2), as the case may be; and

- 20.3.3. the procedure (including the period) for lodging the complaint to the Information Regulator or the application.
- 20.4. If a deposit has been paid in respect of a request for access which is refused, the head of the private body concerned must repay the deposit to the requester.
- 20.5. The head of a private body may withhold a record until the requester concerned has paid the applicable fees (if any).
- 20.6. A requester whose request for access to a record of a private body has been granted must pay an access fee for reproduction and for search and preparation contemplated in subsection (7) (a) and (b), respectively, for any time reasonably required in excess of the prescribed hours to search for and prepare (including making any arrangements contemplated in section 29 (2) (a) and (b) (i) and (ii) (aa)) the record for disclosure.
- 20.7. Access fees prescribed for the purposes of subsection (6) must provide for a reasonable access fee for –
- 20.7.1. the cost of making a copy of a record, or of a transcription of the content of a record, as contemplated in section 29 (2) (a) and (b) (i), (ii) (bb), (iii) and (v) and, if applicable, the postal fee; and

20.7.2. the time reasonably required to search for the record and prepare (including making any arrangements contemplated in section 29 (2) (a) and (b) (i) and (ii) (aa)) the record for disclosure to the requester.

20.8. The Minister may, by notice in the Gazette-

20.8.1. exempt any person or category of persons from paying any fee referred to in this section;

20.8.2. determine that any fee referred to in this section is not to exceed a certain maximum amount;

20.8.3. determine the manner in which any fee referred to in this section is to be calculated;

20.8.4. determine that any fee referred to in this section does not apply to a category of records;

20.8.5. exempt any person or record or category of persons or records for a stipulated period from any fee referred to in subsection (6); and

- 20.8.6. determine that where the cost of collecting any fee referred to in this section exceeds the amount charged, such fee does not apply.

21. **Decision on request and notice thereof**

21.1. Except if the provisions regarding third party notification and intervention contemplated in Chapter 5 of this Part apply, the head of the private body to whom the request is made must, as soon as reasonably possible, but in any event within 30 days, after the request has been received or after the particulars required in terms of section 53 (2) have been received –

21.1.1. Decide in accordance with this Act whether to grant the request;
and

21.1.2. Notify the requester of the decision and, if the requester started, as contemplated in section 53 (2) €, that he or she wishes to be informed of the decision in any other manner, inform him or her in that manner if it is reasonably possible.

21.2. If the request for access is granted, the notice in terms of subsection (1) (b) must state –

21.2.1. The access fee 9if any) to be paid upon access;

21.2.2. The form in which access will be given; and

21.2.3. That the requester may lodge a complaint to the Information Regulator or an application with a court against the access fee to be paid or the form of access granted, and the procedure, including the period allowed, for lodging a complaint to the Information Regulator or the application.

21.3. If the request for access is refused, the notice in terms of subsection (1) (b) must-

21.3.1. State adequate reasons for the refusal, including the provisions of this Act relied on;

21.3.2. Exclude, from any such reasons, any reference to the content of the record; and

21.3.3. State that the requester may lodge a complaint to the Information Regulator an application with a court against the refusal of the request, and the procedure (including the period) for lodging a compliant to the Information Regulator or the application.

22. Extension of period to deal with request

22.1. The head of a private body to whom a request for access has been made, may extend the period of 30 days referred to in section 56 (1) (in this section referred to as the 'original period') once for a further period of not more than 30 days, if –

22.1.1. the request is for a large number of records or requires a search through a large number of records and compliance with the original period would unreasonably interfere with the activities of the private body concerned;

22.1.2. the request requires a search for records in, or collection thereof from, an office of the private body not situated in the same town or city as the office of the head that cannot reasonably be completed within the original period;

22.1.3. consultation among divisions of the private body or with another private body is necessary or desirable to decide upon the request that cannot reasonably be completed within the original period;

- 22.1.4. more than one of the circumstances contemplated in paragraphs (a), (b) and (c) exist in respect of the request making compliance with the original period not reasonably possible; or
 - 22.1.5. the requester consents in writing to such extension.
- 22.2. If a period is extended in terms of subsection (1), the head of the private body must, as soon as reasonably possible, but in any event within 30 days, after the request is received, notify the requester of that extension, the period of the extension and the reasons for the extension.
- 22.3. The notice in terms of subsection (2) must state –
- 22.3.1. the period of the extension;
 - 22.3.2. adequate reasons for the extension, including the provisions of this Act relied upon; and
 - 22.3.3. that the requester may lodge a complaint to the Information Regulator or an application with a court against the extension, and the procedure (including the period) for lodging the application.

23. **Deemed refusal of request**

23.1. If the head of a private body fails to give the decision on a request for access to the requester concerned within the period contemplated in section 56 (1), the head of the private body is, for the purposes of this Act, regarded as having refused the request.

24. **Severability**

24.1. If a request for access is made to a record of a private body containing information which may or must be refused in terms of any provision of Chapter 4 of this Part, every part of the record which-

24.1.1. does not contain; and

24.1.2. can reasonably be served from any part that contains,

any such information must, despite any other provision of this Act, be disclosed.

24.2. If a request for access to –

24.2.1. a part of a record is granted; and

24.2.2. the other part of the record is refused,

as contemplated in subsection (1), the provisions of section 56 (2) apply to paragraph (a) of this subsection and the provisions of section 56 (3) apply to paragraph (b) of this subsection.

25. **Form of access**

25.1. If access is granted to a record of a private body, the head of that body must, as soon as reasonably possible after notification in terms of section 56, but subject to section 57, give access in –

25.1.1. Such form as the requester reasonably requires; or

25.1.2. If no specific form of access is required by the requester, such form as the head reasonably determines.

26. **Notice to third parties**

26.1. The head of a private body considering a request for access to a record that might be a record contemplated in section 63 (1), 64 (1), 65 or 69 (1), must take all reasonable steps to inform a third party to whom or which the record relates of the request.

26.2. The head must inform a third party in terms of subsection (1) –

26.2.1. as soon as reasonably possible, but in any event within 21 days after that request is received; and

26.2.2. by the fastest means reasonably possible.

26.3. When informing a third party in terms of subsection (1), the head must –

26.3.1. state that he or she is considering a request for access to a record that might be a record contemplated in section 63 (1), 64 (1), 65 or 69 (1), as the case may be, and describe the content of the record;

26.3.2. furnish the name of the requester;

26.3.3. describe the provisions of section 63 (1), 64 (1), 65 or 69 (1), as the case may be;

26.3.4. in any case where the head believes that the provisions of section 70 might apply, describe those provisions, specify which of the circumstances referred to in section 70 (a) in the opinion of the

head might apply and state the reasons why he or she is of the opinion that section 70 might apply; and

26.3.5. state that the third party may, within 21 days after the third party is informed –

26.3.5.1. make written or oral representations to the head why the request for access should be refused; or

26.3.5.2. give written consent for the disclosure of the record to the requester.

26.4. If a third party is informed orally of a request for access in terms of subsection (1), the head must give a written notice stating the matters referred to in subsection (3) to the third party.

27. **Representations and consent by third parties**

27.1. A third party that is informed in terms of section 71 (1) of a request for access, may, within 21 days after being so informed –

27.1.1. make written or oral representations to the head concerned why the request should be refused; or

27.1.2. give written consent for the disclosure of the record to the requester concerned.

27.2. A third party that obtains knowledge about a request for access other than in terms of section 71 (1) may-

27.2.1. make written or oral representations to the head concerned why the request should be refused; or

27.2.2. give written consent for the disclosure of the record to the requester concerned.

28. **Decision on representations for refusal and notice thereof**

28.1. The head of a private body must, as soon as reasonably possible, but in any event within 30 days after every third party is informed as required by section 71-

28.1.1. decide, after giving due regard to any representations made by a third party in terms of section 72, whether to grant the request for access;

28.1.2. notify the third party so informed and a third party not informed in terms of section 71, but that made representations in terms of section 72 or is located before the decision is taken, of the decision; and

28.1.3. notify the requester of the decision and, if the requester stated, as contemplated in section 53 (2) €, that he or she wishes to be informed of the decision in any other manner, inform him or her in that manner if it is reasonably possible, and if the request is –

28.1.3.1. granted, notify the requester in accordance with section 56 (2); or

28.1.3.2. refused, notify the requester in accordance with section 56 (3).

28.2. If, after all reasonable steps have been taken as required by section 71, a third party is not informed of a request, any decision whether to grant the request for access must be made with due regard to the fact that the third party did not have the opportunity to make representations in terms of section 72 why the request should be refused.

28.3. If the request is granted, the notice in terms of subsection (1) (b) must state

—

28.3.1. adequate reasons for granting the request, including the provisions of this Act relied upon to justify the granting;

28.3.2. that the third party may lodge a complaint to the Information Regulator or an application with a court against the decision of the head within 30 days after notice is given, and the procedure for lodging the complaint to the Information Regulator⁴ or the application; and

28.3.3. that the requester will be given access to the record after the expiry of the applicable period contemplated in paragraph (b), unless a complaint to the Information Regulator or an application with a court is lodged within that period.

28.4. If the head of the private body decides in terms of subsection (1) to grant the request for access concerned, he or she must give the requester access to the record concerned after the expiry of 30 days after notice is given in terms of subsection (1) (b), unless a complaint to the Information Regulator or an application with a court is lodged against the decision within that period.

29. **Right of internal appeal to relevant authority**

29.1. A requester may lodge an internal appeal against a decision of the information officer of a public body referred to in paragraph (a) of the definition of 'public body' in section 1 –

29.1.1. to refuse a request for access; or

29.1.2. taken in terms of section 22, 26 (1) or 29 (3),

in relation to that requester with the relevant authority.

29.2. A third party may lodge an internal appeal against a decision of the information officer of a public body referred to in paragraph (a) of the definition of 'public body' in section 1 to grant a request for access.

30. **Manner of internal appeal and appeal fees**

30.1. An internal appeal –

30.1.1. must be lodged in the prescribed form 4 attached hereto as
annexure 'I':

- 30.1.1.1. within 60 days;
- 30.1.1.2. if notice to a third party is required by section 49 (1) (b),
within 30 days after notice is given to the appellant of
the decision appealed against or, if notice to the
appellant is not required, after the decision was taken;
- 30.1.2. must be delivered or sent to the information officer of the public
body concerned at his or her address, fax number or electronic
mail address;
- 30.1.3. must identify the subject of the internal appeal and state the
reasons for the internal appeal and may include any other relevant
information known to the appellant;
- 30.1.4. if, in addition to a written reply, the appellant wishes to be informed
of the decision on the internal appeal in any other manner, must
state that manner and provide the necessary particulars to be so
informed;
- 30.1.5. if applicable, must be accompanied by the prescribed appeal fee
referred to in subsection (3); and

30.1.6. must specify a postal address or fax number.

30.2.

30.2.1. If an internal appeal is lodged after the expiry of the period referred to in subsection (1) (a), the relevant authority must, upon good cause shown, allow the late lodging of the internal appeal.

30.2.2. If that relevant authority disallows the late lodging of the internal appeal, he or she must give notice of that decision to the person that lodged the internal appeal.

30.3.

30.3.1. A requester lodging an internal appeal against the refusal of his or her request for access must pay the prescribed appeal fee (if any).

30.3.2. If the prescribed appeal fee is payable in respect of an internal appeal, the decision on the internal appeal may be deferred until the fee is paid.

30.4. As soon as reasonably possible, but in any event within 10 working days after receipt of an internal appeal in accordance with subsection (1), the

information officer of the public body concerned must submit to the relevant authority –

30.4.1. The internal appeal together with his or her reasons for the decision concerned; and

30.4.2. If the internal appeal is against the refusal or granting of a request for access, the name, postal address, phone and fax number and electronic mail address, whichever is available, of any third party that must be notified in terms of section 47 (1) of the request.

31. **Notice to and representations by other interested persons**

31.1. If a relevant authority is considering an internal appeal against the refusal of a request for access to a record contemplated in section 34 (1), 35 (1), 36 (1), 37 (1) or 43 (1), the authority must inform the third party to whom or which the record relates of the internal appeal, unless all necessary steps to locate the third party have been unsuccessful.

31.2. The relevant authority must inform a third party in terms of subsection (1) –

31.2.1. As soon as reasonably possible, but in any event within 30 days after the receipt of the internal appeal; and

31.2.2. By the fastest means reasonably possible.

31.3. When informing a third party in terms of subsection (1), the relevant authority must –

31.3.1. state that he or she is considering an internal appeal against the refusal of a request for access to a record contemplated in section 34 (1), 35 (1), 36 (1), 37 (1) or 43 (1), as the case may be, and describe the content of the record and the provisions of section 34 (1), 35 (1), 36 (1), 37 (1) or 43 (1), as the case may be;

31.3.2. furnish the name of the appellant;

31.3.3. in any case where that authority believes that the provisions of section 46 might apply, describe those provisions, specify which of the circumstances referred to in section 46 (a) in the opinion of the head might apply and state the reasons why he or she is of the opinion that section 46 might apply; and

31.3.4. state that the third party may, within 21 days after the third party is informed, make written representations to that authority why the request for access should not be granted.

31.4. If a third party is informed orally of an internal appeal in terms of subsection (1), the relevant authority must, on request, give a written notice stating the matters referred to in subsection (3) to the third party.

31.5. A third party that is informed of an internal appeal in terms of subsection (1), may within 21 days after the third party has been informed, make written representations to the relevant authority why the request for access should not be granted.

31.6. A third party that obtains knowledge about an internal appeal other than in terms of subsection (1) may –

31.6.1. make written or oral representations to the relevant authority why the request for access should be refused; or

31.6.2. give written consent for the disclosure of the record to the requester concerned.

31.7. If the relevant authority is considering an internal appeal against the granting of a request for access, the authority must give notice of the internal appeal to the requester concerned.

31.8. The relevant authority must –

31.8.1. notify the requester concerned in terms of subsection (7) as soon as reasonably possible, but in any event within 30 days after the receipt of the internal appeal; and

31.8.2. state in that notice that the third party may within 21 days after notice is given, make written representations to that authority why that request should be granted.

31.9. A requester to whom or which notice is given in terms of subsection (7) may within 21 days after that notice is given, make written representations to the relevant authority why the request for access should be granted.

32. Decision on internal appeal and notice thereof

32.1. The decision on an internal appeal must be made with due regard to –

32.1.1. the particulars stated in the internal appeal in terms of section 75 (1) (c);

32.1.2. any reasons submitted by the information officer in terms of section 75 (4) (a);

32.1.3. any representations made in terms of section 76 (5), (6) or (9); and

32.1.4. if a third party cannot be located as contemplated in section 76 (1), the fact that the third party did not have the opportunity to make representations in terms of section 76 (5) why the internal appeal should be dismissed.

32.2. When deciding on the internal appeal the relevant authority may confirm the decision appealed against or substitute a new decision for it.

32.3. The relevant authority must decide on the internal appeal –

32.3.1. as soon as reasonably possible, but in any event within 30 days after the internal appeal is received by the information officer of the body;

32.3.2. If a third party is informed in terms of section 76 (1), as soon as reasonably possible, but in any event within 30 days; or

32.3.3. If notice is given in terms of section 76 (7) –

32.3.3.1. Within five working days after the requester concerned has made written representations in terms of section 76 (9); or

32.3.3.2. In any other case within 30 days after notice is so given.

32.4. The relevant authority must, immediately after the decision on an internal appeal –

32.4.1. give notice of the decision to –

32.4.1.1. the appellant;

32.4.1.2. every third party informed as required by section 76 (1); and

32.4.1.3. the requester notified as required by section 76 (7);
and

32.4.2. if reasonably possible, inform the appellant about the decision in any other manner stated in terms of section 75 (1) (d).

32.5. The notice in terms of subsection (4) (a) must –

32.5.1. state adequate reasons for the decision, including the provision of this Act relied upon;

32.5.2. exclude, from such reasons, any reference to the content of the record;

32.5.3. state that the appellant, third party or requester, as the case may be, may lodge an application with a court against the decision on internal appeal –

32.5.3.1. within 180 days; or

32.5.3.2. if notice to a third party is required by subsection (4)
(a) (ii), within 180 days,

after notice is given, and the procedure for lodging the application;
and

32.6. if the relevant authority decides on internal appeal to grant a request for access and notice to a third party –

32.6.1.1. is not required by subsection (4) (a) (ii), the information officer of the body must forthwith give the requester concerned access to the record concerned; or

32.6.1.2. is so required, the information officer must, after the expiry of 30 days after the notice is given to every third party concerned, give the requester access to the record concerned, unless an application with a court is lodged against the decision on internal appeal before the end of the period contemplated in subsection (5) (c) (ii) for lodging that application.

32.7. If the relevant authority fails to give notice of the decision on an internal appeal to the appellant within the period contemplated in subsection (3), that authority is, for the purposes of this Act, regarded as having dismissed the internal appeal.

33. **Complaints**

33.1. A requester of third party referred to in section 74 may only submit a complaint to the Information Regulator in terms of this section after that requester or third party has exhausted the internal appeal procedure against a decision of the information officer of a public body provided for in section 74.

33.2. A requester –

33.2.1. That has been unsuccessful in an internal appeal to the relevant authority of a public body;

33.2.2. Aggrieved by a decision of the relevant authority of a public body to disallow the late lodging of an internal appeal in terms of section 75 (2);

33.2.3. Aggrieved by a decision of the information officer of a public body referred to in paragraph (b) of the definition of 'public body' in section 1 –

33.2.3.1. To refuse a request for access; or

33.2.3.2. Taken in terms of section 22, 26 (1) or 29 (3); or

33.2.4. Aggrieved by a decision of the head of a private body –

33.2.4.1. To refuse a request for access; or

33.2.4.2. Taken in terms of section 54, 57 (1) or 60,

may within 180 days of the decision, submit a complaint, alleging that the decision was not in compliance with this Act, to the Information Regulator in the prescribed manner and form for appropriate relief.

33.3. A third party –

- 33.3.1. that has been unsuccessful in an internal appeal to the relevant authority of a public body;
- 33.3.2. aggrieved by a decision of the information officer of a public body referred to in paragraph (b) of the definition of 'public body' in section 1 to grant a request for access; or
- 33.3.3. aggrieved by a decision of the head of a private body in relation to a request for access to a record of that body,

may within 180 days of the decision, submit a complaint, alleging that the decision was not in compliance with this Act, to the Information Regulator in the prescribed manner and form for appropriate relief.

ANNEXURE “A”

Emil Bihl

Attorney, Conveyancer & Risk Manager [ISO31000]

Tel.: 011 475-9422

Email: emil@em.law.za

ANNEXURE: “B”

DETAILS OF THE PRIVATE BODY AS PER SECTION 51(1)(a)(i) OF THE ACT

Name: **Erasmus Motaung Inc.**

Registration number: **1997/016580/21**

Postal address: **P.O. Box 21, Florida Hills, 1716**

Street address: **Cats Corner Office Block, 39 Kroton Street South, Weltevreden Park,
1709, Johannesburg**

Phone number: **011 475-94232**

Fax number: **N/A**

Electronic email address of the Head of the Private Body: emil@em.law.za

"C"

ANNEXURE A

FORM 1

REQUEST FOR A COPY OF THE GUIDE

[Regulations 2 and 3]

TO:

*The Information Regulator

P.O Box 31533

Braamfontein,

2017

E-mail address: infoereg@justice.gov.za

Tel number: +27 (0) 10 023 5200

OR

*The information officer

REQUEST DETAILS

Full names:	
In my capacity as (mark with "x"):	Information officer / Other
Name of public/private body (if applicable):	
Postal Address:	
Street Address:	

E-mail Address:

Facsimile:

Contact numbers:

Tel (B): _____ Cellular: _____

I hereby request the following copy(ies) of the guide:

Language (mark with "X")	No of copies	Language (mark with "X")	No of copies
Sepedi		Sesotho	
Setswana		siSwati	

Tshivenda		Xitsonga	
Afrikaans		English	
isiNdebele		isiXhosa	
isiZulu			

Manner of collection (mark with "x"):

Personal collection	Postal address	Facsimile	Electronic communication (Please specify)

Signed at _____ this ____ day of _____ 20____

Signature of requester

* Delete whichever is not applicable

ANNEXURE 'D':

**CATEGORIES OF RECORDS AVAILABLE WITHOUT FOLLOWING THE PROCEDURES IN
TERMS OF THE ACT:**

- Mandate documents; and
- Invoices and/or statements and/or quotes.

ANNEXURE “E”

- FICA documents in terms of the Financial Intelligence Centre Amendment Act.

ANNEXURE “F”

- Client file documents
- Documents relating to the execution of instructions and/or mandate.

FORM 2

REQUEST FOR ACCESS TO RECORD

[Regulation 7]

Note:

1. Proof of identity must be attached by the requester.
2. If requests are made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The information officer

(Address)

E-mail address: _____

Fax number: _____

Mark with an "X":

☐ Request is made in my own name

☐ Request is made on behalf of another person.

PERSONAL INFORMATION

Full names:

Identity number:

Capacity in which request is made (when made on behalf of another person):

Postal Address:

Street Address:

E-mail Address:

Contact numbers: Tel (B): _____ Facsimile: _____ Cellular: _____

Full names of person on whose behalf request is made (if applicable):

Identity number:

Postal Address:

Street Address:

E-mail Address:

Contact numbers: Tel (B): _____ Facsimile: _____ Cellular: _____

PARTICULARS OF RECORD REQUESTED

Provide full particulars of the record to which access is requested, including the reference number if known to you, to enable the record to be located. If the provided space is inadequate, please continue on a separate page and attach it to this form.

Description of record or relevant part of the record:

Reference number, if available:

Any further particulars of record:

TYPE OF RECORD

Mark the applicable box with an "X"

Record is in written or printed form

Record comprises visual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

Record consists of recorded words or information which can be reproduced in sound

Record is held on a computer or in an electronic or machine-readable form

FORM OF ACCESS

Mark the applicable box with an "X"

Printed copy of record (including copies of any virtual images, transcripts and information held on computer or in an electronic or machine-readable form)

Written or printed transcription of virtual images

Transcription of soundtrack (written or printed document)

Copy of record on flash drive (including virtual images and soundtracks)

Copy of record on compact disc drive (including virtual images and soundtracks)

Copy of record saved on cloud storage server

MANNER OF ACCESS

Mark the applicable box with an "X"

Personal inspection of record at registered address of public/private body

Postal service to postal address

Postal service to street address

Courier service to street address

Facsimile of information in written or printed format

E-mail of information (including soundtracks if possible)

Cloud share/file transfer

Preferred language:

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED

Indicate which right is to be exercised or protected:

Explain why the record is required for the exercise or protection of the aforementioned right:

FEES

a) A request fee must be paid before the request will be considered.

b) You will be notified of the amount of the access fee to be paid.

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:

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address | Facsimile | Electronic communication (Please specify)

Annexure “H”

Documents generated containing Personal Information:

1. Initial connection documentation (which may vary pending on the nature of the instruction);
2. Client file (hard copy);
3. Mandate documents;
4. FICA documents;
5. Bank confirmation notices;
6. Invoices and / or statements and / or quotes;
7. Any other ancillary documents provided by the client to allow EMI to execute its mandate;
8. All documents relating to the execution of instructions and / or mandate of the Client including such documents to third parties to execute instructions;
9. Termination of mandate documents;
10. All documents relating to storage of Personal Information;
11. All documents relating to the deidentifying of the Client.

" I "

FORM 4 - LODGING OF AN INTERNAL APPEAL [Regulation 9]

Reference number: _____

PARTICULARS OF PUBLIC BODY

Name of public body: _____

Name and surname of information officer: _____

PARTICULARS OF COMPLAINANT WHO LODGES THE INTERNAL APPEAL

Full names: _____

Identity number: _____

Postal address: _____

Contact numbers: Tel (B): _____ Cellular: _____

Facsimile: _____

E-mail Address: _____

Is the internal appeal lodged on behalf of another person? Yes / No

If answer is "yes", capacity in which an internal appeal on behalf of another person is lodged:

(Proof of the capacity in which appeal is lodged, if applicable, must be attached.)

PARTICULARS OF PERSON ON WHOSE BEHALF THE INTERNAL APPEAL IS LODGED (if lodged by a third party)

Full names: _____

Identity number: _____

Postal address: _____

Contact numbers: Tel (B): _____ Cellular: _____

Facsimile: _____

E-mail address: _____

DECISION AGAINST WHICH THE INTERNAL APPEAL IS LODGED

(Mark the appropriate box with an 'X')

- ☐ Refusal of request for access
- ☐ Decision regarding fees prescribed in terms of section 22 of the Act
- ☐ Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act
- ☐ Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester
- ☐ Decision to grant request for access

GROUND'S FOR APPEAL

(If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)

State the grounds on which the internal appeal is based:

OTHER RELEVANT INFORMATION

State any other information that may be relevant in considering the appeal:

You will be notified in writing of the decision on your internal appeal. Please indicate your preferred manner of notification:

Postal address: _____ Facsimile: _____ Electronic communication
(Please specify): _____

Signed at _____ this ____ day of _____ 20____

Signature of appellant/Third party: _____

FOR OFFICIAL USE - OFFICIAL RECORD OF INTERNAL APPEAL

Appeal received by (state rank, name and surname of Information Officer):

Date received: _____

Appeal accompanied by the reasons for the information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer: Yes / No

OUTCOME OF APPEAL

Refusal of request for access confirmed? Yes / No

New decision (if not confirmed): _____

Fees (Sec 22) confirmed? Yes / No

New decision (if not confirmed): _____

Extension (Sec 26(1)) confirmed? Yes / No

New decision (if not confirmed): _____

Access (Sec 29(3)) confirmed? Yes / No

New decision (if not confirmed): _____

Request for access granted? Yes / No

New decision (if not confirmed): _____

Signed at _____ this _____ day of _____ 20____

Relevant authority: _____