SW Accountants (Pty) Ltd

Registration No: 2020/759726/07

Act 2 of 2000,

The Promotion of Access to Information

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

A. Manual
B. Annexure A – Request for Access to Records of a Private Body
C. Annexure B – Fees in Respect of Private Bodies
D. Annexure C – Published Version

Effective Date: 1 February 2003

A. MANUAL

1. INTRODUCTION

Section 32 of the Constitution of the Republic of South Africa, No. 108 of 1996 ("the Constitution") provides:

(1) Everyone has the right of access to –

(a) any information held by the state; and
(b) any information that is held by another person and that is required for the exercise of protection of any rights.

(2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

The Promotion of Access to Information Act 2 of 2000 ("the Act"), was enacted on 3 February 2002 to give effect to section 32 of the Constitution, that is 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 of protection of any rights. Where a request is made in terms of this Act, the private or public body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The Act sets out the requisite procedural issues attached to such a request.

The Act came into effect on 9 March 2001 with the exception of sections 10, 14 and 51 which sections were brought into operation on 15 February 2002.

2. WHO MAY REQUEST INFORMATION IN TERMS OF THE ACT

Any person who requires information for the exercise or protection of any rights, may request information from a private body. Section 50 of the Act states that:

(1) A requester must be given access to any record of a private body if –

(a) that record is required for the exercise or protection of any rights;

(b) that person complies with the procedural requirements in this Act relating to a request for access to that record; and

(c) access to that record is not refused in terms of any ground for refusal contemplated in Chapter 8 of this Manual.

3. PROCEDURES FOR OBTAINING ACCESS

3.1 Contact details

(Information required under section 51(1)(a) of the Act):

a. Name of the Body
SW Accountants (Pty) Ltd

b. Description of business
Registered Accountants

c. Information Officer of the body
Sunette Wessels

d. Street address
35 Pellissier Drive
Pellissier
Bloemfontein
9301

e. Registered address
35 Pellissier Drive
Pellissier
Bloemfontein
9301

f. Telephone number
066 579 0369

g. E-mail
sunette@swaccountants.co.za

h. Website
www.swaccountants.co.za

i. Contact details of Information Officer
As Above

3.2 Prescribed Access Form

In terms of section 53, a request for access to a record SW Accountants (Pty) Ltd must be made in the prescribed form to SW Accountants (Pty) Ltd at the address or electronic mail address given above. The form requires the requestor to provide the following information:

- Sufficient information to enable the information officer to identify the requestor;
- Sufficient information to enable the information officer to identify the record(s) requested;
- The form of access required;
- The requestor's postal address or fax number;
- Identification of the right sought to be exercised or protected;
- An explanation on why the record is required to exercise or protect that right;
- The manner in which the requestor wishes to be informed of the decision on the request, if in a manner in addition to written notification;
  And

- If the request is made on behalf of a person, the submission of proof of the capacity in which the requestor makes the request, to the satisfaction of the information officer.

For a specimen of the request form see ANNEXURE A to the manual. Requestor's, please note that all of the information as listed above should be provided, failing which the process will be delayed while the private body requests such additional information. The prescribed time periods will not commence until all pertinent information has been furnished on the private body by the requestor.

3.3 Prescribed Fees

Payment of fees is regulated in terms of section 54 of the Act. The Regulations of the Act provides for two types of fees:

- Request fee: This is a non-refundable administration fee paid by all requestors with the exclusion of personal requestors. It is paid before the request is considered.

- Access fee: This is paid by all requestors only when access is granted. This fee is intended to reimburse the private body for the costs involved in searching for a record and preparing it for delivery to the requester.

SW Accountants (Pty) Ltd. may withhold a record until the request fee and the deposit (if applicable) have been paid. A schedule of the prescribed fees is attached as ANNEXURE B to the manual.

3.4 Requestor other than Personal Requestor

The information officer must give written notice to a requestor other than a personal requestor of the request fee and amount to be paid before the request may be further processed.

If in the information officer's opinion, the search for a record, or preparation of the record for disclosure will require more than the prescribed hours, the information officer may require the requestor to pay a deposit, not being more than one third of the access fee that would be payable if the request is granted. If the request is declined, the deposit must be repaid to requestor.

The notice given by the information officer must advise the requestor that s/he has a right to apply to court against the payment of the request fee or deposit, and also advise of the procedure of the application.

3.5 Personal Requestor

A personal requestor is described in terms of the Act as a requestor seeking access to a record containing information about the requestor.

A personal requestor is not liable to pay a request fee, but is liable for payment of access fees in the event of a request being granted, but may not be required to pay a deposit before the granting of the record.

4. HUMAN RIGHTS COMMISSION GUIDELINE

In terms of section 10 of the Act, the Human Rights Commission must compile a guide by 14 August 2003. This guide is intended to assist users in the interpretation of the Act. The guide will contain a description of the objects of the Act, the contact details of the information officers of all the public bodies, particulars of the public bodies, the manner of access to the records of those
public bodies and the remedies available in law regarding a breach of any of the provisions of the Act.

The South African Human Rights Commission's contact details are as follows:

Private Bag 2700
Houghton
2041

Tel: 011 484 8300

Fax: 011 484 1360

5. TYPES OF RECORDS

The requestor may request access to the following types of documents:

5.1 Personnel Records

These include:

- Any personal records provided to the private body by their personnel;
- Any records a third party has provided to the private body about any of their personnel;
- Conditions of employment and other personnel-related contractual and quasi-legal records;
- Other internal records and correspondence.

5.2 Customer-related records

A customer includes any entity who receives services from the private body. Customer related information includes the following:

- Any records a customer has provided to a third party acting for or on behalf of the private body;
- Any records a third party has provided to the private body; and
- Records generated by or within the private body pertaining to the customer, including transactional records.

5.3 Private body records

This includes but is not limited to the following:

- Financial records;
- Operational records;
- Databases;
- Information technology;
- Marketing records;
- Internal correspondence;
- Statutory records;
- Records held by officials of the private body.

5.4 Other Parties

The private body may possess records pertaining to other parties, including without limitation, contractors, suppliers, holding companies, service providers. Alternatively, such other parties may possess records which can be said to belong to the private body.

5.5 Records Available in terms of other Legislation

The requestor may also request information which is available in terms of legislation, such as the following:

Auditing Professions Act 26 of 2005

Basic Conditions of Employment Act 75 of 1997

Companies Act 71 of 2008

Compensation for Occupational Injuries and Diseases Act 130 of 1993

Consumer Protection Act 68 of 2008

Income Tax Act 58 of 1962

Labour Relations Act 66 of 1995

Occupational Health and Safety Act 85 of 1993

Promotion of Access to Information Act 2 of 2000

Skills Development Act 97 of 1998

Skills Development Levies Act 9 of 1999

Unemployment Insurance Act 63 of 2001

Unemployment Insurance Contributions Act 4 of 2002

Value Added Tax Act 89 of 1991

The Information officer will take into consideration section 8 of the manual to decide on whether or not access to any of the information stated above should be given to the requester.

6. DECISION-MAKING PROCESS

6.1 In terms of Section 55, the information officer will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the information officer must notify the requestor by way of affidavit or affirmation that it is not possible to give access to the record. This is deemed to be a refusal of the request. If, however, the record is later found, the requestor must be given access if the request would otherwise have been granted.

6.2 Section 56 provides that the information officer must within 30 days of receipt of a correctly completed request notify the requestor of the decision as to whether or not to grant the request. If the request is:

- Granted: the notification must state the application access fee required to be paid, together with the procedure to be followed should the requestor wish to apply to court against such fee, and the form in which access will be given.

- Declined: the notification must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon, and provide the procedure to be followed should the requestor wish to apply to court against the decision.

6.3 The information officer may extend the period of 30 days by a further period not exceeding 30 days if:

- The request is for a large number of records or requires a search through a large number of records;

- Consultation with another private body is required; or

- The requestor consents to the extension.

The requestor must be notified within the initial 30-day period in writing of the extension, together with reasons therefore, and the procedure involved should the requestor wish to apply to court against the extension.

The information officer's failure to respond to the requestor within the 30-day period constitutes a deemed refusal of the request.

6.4 Section 59 provides that the information officer may sever a record and grant access only to that portion which the law does not prohibit access to. If access is granted, access must be given in the form that is reasonably required by the requestor, or if the requestor has not identified a preference, in a form reasonably determined by the information officer.

7. THIRD PARTIES

If the request is for a record pertaining to a third party, the information officer must take all reasonable steps to inform that third party of the request. This must be done within 21 days of receipt of the request. The manner in which this is done must be in the fastest means reasonably possible, but if orally, the information officer must thereafter give the third party a written confirmation of the notification. The third party may within 21 days thereafter either makes representation to the private body as to why the request should be refused or alternatively grant written consent to the disclosure of the record. The third party must be advised of the decision taken by the information officer on whether to grant or decline the request, and must also be advised of his/her/its right to appeal against the decision by way of application to court within 30 days after the notice.

8. GROUNDS FOR REFUSAL OF A REQUEST

Notwithstanding compliance with section 50, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:

8.1 Section 63 of the Act prohibits the unreasonable disclosure of the personal information of natural-person third parties to requestors. This includes the personal information of deceased persons. However, Section 63(2) does provide exceptions of this.

8.2 Section 64 states that a request must be refused if it relates to records containing third party information pertaining to:

- Trade secrets;
- Financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or
- Information supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition.

The information must, however, be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

8.3 Section 65 prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.

8.4 In terms of section 66, a private body must refuse a request for access to a record of the body if disclosure could reasonably be expected to:

- Endanger the life or physical safety of an individual;
- Prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property.

- The private body may also refuse a request for access to information which would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.

8.5 Section 67 mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.

8.6 Section 68 pertains to records containing information about the private body itself and unlike the other provisions pertaining to decline of a request, is not mandatory, but rather discretionary. SW Accountants (Pty) Ltd may refuse access to a record if the record:

- Contains trade secrets of SW Accountants (Pty) Ltd

- Contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interest of financial interests of SW Accountants (Pty) Ltd

- Contains information which, if disclosed, could reasonably be expected to put the private body at a disadvantage in contractual or other negotiations, or prejudice SW Accountants (Pty) Ltd in commercial competition; or

- Consists of a computer program owned by SW Accountants (Pty) Ltd

Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

8.7 Section 69 prohibits the disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to SW Accountants (Pty) Ltd itself.

Notwithstanding any of the above-mentioned provisions, section 70 provides that a record must be disclosed if its disclosure would:

- Reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and

- If the public interest in the disclosure clearly outweighs the harm.

9. RIGHTS OF APPEAL

A requestor that is dissatisfied with the information officer's refusal to grant access to any information may, within 30 days of notification of the decision, apply to court for relief. Likewise, a third party dissatisfied with the information officer's decision to grant a request may, within 30 days of notification of the decision, apply to court or relief.

It should be noted that notwithstanding any provision in this Act, the court may examine the record(s) in question, no record may be withheld from the court on any grounds. The court may not, however, disclose the contents of the record(s).

The court is empowered to grant any order that is just and equitable, including:

- Confirming, amending or setting aside the information officer’s decision
- Requiring the information officer to take any action, or refrain from taking any action as identified by the court within a specified period;
- Granting an interdict, interim or special relief, declaratory order or compensation; or costs.

ANNEXURE A

REQUEST FOR ACCESS TO RECORDS OF A PRIVATE BODY

(**Section 53(1) of the Promotion of Access to Information Act, (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 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. 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:

   _____

   _____

G. 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 THE REQUEST IS MADE
ANNEXURE B

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 and access fees payable referred to in regulation 11(1) and 11(3) are as follows:

		R
(a)	For every photocopy of an A4-size page or part thereof	R 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	R 0,75
(c)	For a copy in a computer-readable form on compact disc	R 70,00
(d) (i)	For a transcription of visual images, for an A4-size page or part thereof	R 40,00
(ii)	For a copy of visual images	R 60,00

3) The request fee payable as a requester, other than a personal requester, referred to in regulation 11(2) is R 50.00.

4) To search for and prepare the record for disclosure, R 30.00 for each hour or part of an hour reasonably required for such search and preparation.

5) 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.

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

ANNEXURE C

MANUAL for SW ACCOUNTANTS (PTY) LTD

Registration Number: 2020/759726/07

Prepared in terms of the requirements of Section 51 of the

PROMOTION OF ACCESS TO INFORMATION ACT

NO. 2 of 2000

Part 1: Company and contact details

(Information required under section 51(1)(a) of the Act)

Name of company	SW Accountants (Pty) Ltd
.	
Description of business	Registered Accountants
Information Officer	S Wessels
Business address	35 Pellissier Drive Pellissier Bloemfontein 9301
Registered address	35 Pellissier Drive Pellissier Bloemfontein 9301
Telephone number	066 579 0369
E-mail	sunette@swaccountants.co.za
Website	www.swaccountants.co.za
Contact details of Information Officer	As Above

Part 2: Guide to the Manual and its Access

(Information required under section 51(1)(b) of the Act)

A guide on how to use the Act is being compiled by the Human Rights Commission in terms of Section 10 of the Act by no later than August 2003. Any queries should be directed to: The South African Human Rights Commission: Private Bag x 2700 Houghton 2041. Telephone (011) 484 8300 or Fax (011) 484 1360 or Web Site www.sahrc.org.za

Part 3: Records

(Information required under section 51(1)(c) of the Act)

No section 52(2) notice has been published by the Minister.

Part 4: Records available in terms of other Legislation

(Information required under section 51(1)(d) of the Act)

Auditing Professions Act 26 of 2005

Basic Conditions of Employment Act 75 of 1997

Companies Act 71 of 2008

Compensation for Occupational Injuries and Diseases Act 130 of 1993

Consumer Protection Act 68 of 2008

Income Tax Act 58 of 1962

Labour Relations Act 66 of 1995

Occupational Health and Safety Act 85 of 1993

Promotion of Access to Information Act 2 of 2000

Skills Development Act 97 of 1998

Skills Development Levies Act 9 of 1999

Unemployment Insurance Act 63 of 2001

Unemployment Insurance Contributions Act 4 of 2002

Value Added Tax Act 89 of 1991

Part 5: Records that are held by the company

(Information required under section 51(1)(e) of the Act)

A: Records that may be requested

1. Records required in terms of Company Law;

2. Records required in terms of other legislation applicable to the business;

3. The product and services offered by the company;

4. Records relating to clients;

5. Personnel records

B: The request procedures

Form of request

The requester must use the prescribed form to make the request for access to a record. This must be made to the head of the private body. This request must be made to the address or fax number of the body concerned [s 53(1)].

The requester must provide sufficient detail on the request form to enable the head of the private body to identify the record and the requester. The requester should also indicate which form of access is required and specify a postal address or fax number in the Republic. The requester should also indicate if any other manner is to be used to inform the requester and state the necessary particulars to be so informed [s 53(2)(a) and (b) and (c) and (e)].

The requester must identify the right that is sought to be exercised or protected and provide an explanation of why the requested record is required for the exercise or protection of that right [s 53(2)(d)].

If a request is made on behalf of another person, the requester must submit proof of the capacity in which the requester is making the request to the satisfaction of the head of the private body [s 53(2)(f)].

Part 6: Manual availability

(Availability of manual under section 51(3) of the Act)

This Manual is available for inspection by the general public upon request, during office hours at the offices of SW Accountants (Pty) Ltd. Copies may also be requested from the South African Human Rights Commission.

Part 7: Prescribed forms and fee structure in respect of private bodies

The forms and fee structure prescribed under the Act are available at the website of the Department of Justice and Constitutional Development (www.doj.gov.za), under Manuals.