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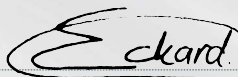
SK TRUCKING PTY LTD

*is in full compliance of the following legislation
regulating information compliance:*

Promotion of Access to Information Act of 2000 (PAIA)

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Valid until: 19 July 2023



Charlene Eckard - Information Compliance Officer





INFORMATION MANUAL OF:

SK TRUCKING (PTY) LTD

(Compiled in terms of section 51 of the Promotion of Access
to Information Act, Act No. 2 of 2000)

OUR Manual

YOUR Guide

Protection for **EVERYONE**



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1 DEFINITIONS AND INTERPRETATION

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them hereunder, namely –

- 1.1 **“Access fee” or “request fee”** means a fee prescribed in terms of section 54 of PAIA and Part III of the Regulations for the purposes of access and reproduction as per **Annexure 2**.
- 1.2 **“Act” or “PAIA”** means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), and the Regulations regarding the Promotion of Access to Information, published in *Government Gazette* Notice 187 of 15 February 2002, and *Government Gazette* No. 45057 dated 27 August 2021 respectively.
- 1.3 **“Application”** means an Application to a Court in terms of the Act (Section 78).
- 1.4 **“Biometrics”** means a technique of personal identification that is based on physical, physiological or behavioural characterisation, including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition.
- 1.5 **“Complainant”** means a Requester or a third party.
- 1.6 **“Consent”** means any voluntary, specific and informed expression agreeing to the Processing of Personal Information.
- 1.7 **“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).
- 1.8 **“Court”** means –
 - 1.8.1 the Constitutional Court acting in terms of section 167(6)(a) of the Constitution; or
 - 1.8.2 a High Court or another Court of similar status; or
 - 1.8.3 a Magistrate’s Court, either generally or in respect of a specified class of decisions in terms of this Act, designated by the Minister, by notice in the *Government Gazette*, and presided over by a Magistrate designated in writing by the Minister, after consultation with the Magistrates Commission, within whose area of jurisdiction –
 - 1.8.3.1 the decision of the Information Officer or relevant authority of a Public Body or the Head of a Private Body has been taken;
 - 1.8.3.2 the Public Body or Private Body concerned has its principal place of administration or business; or
 - 1.8.3.3 the Requester or Third Party concerned is domiciled or ordinarily resident.
- 1.9 **“Data subject”** means the Person to whom the Personal Information relates, including a Third Party.
- 1.10 **“Guide”** means the Guide contemplated in section 10 of the Act published and made available in terms of Regulation 2 of the Regulations.

- 1.11 **“Information Officer”** of, or in relation to, a –
- 1.11.1 public body, means an information officer or deputy information officer as contemplated in terms of section 1 or 17 of POPIA; or
 - 1.11.2 private body, means the head of a private body as contemplated in section 1 of PAIA;
- 1.12 **“In writing”** includes in the form of a data message and accessible in a manner usable for subsequent reference, as contemplated in section 12 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002).
- 1.13 **“Information Regulator”** means the Information Regulator established in terms of Section 39 of POPIA.
- 1.14 **“Manual”** means this Manual, compiled and published in terms of Section 51 of the Act and Regulation 9, also referred to as the Information Manual.
- 1.15 **“Official”** means any Person who works for or provides services to or on behalf of the Company, whether permanently or temporarily, full time or part time, and who receives or is entitled to receive any remuneration or payment. This includes, without limitation, directors (both executive and non-executive) and all permanent, temporary and part-time staff, contract workers as well as the Head of the Private Body as defined in the Act.
- 1.16 **“PAIA”** means the **“Act”**.
- 1.17 **“Person”** means a natural Person or a juristic Person.
- 1.18 **“Personal Information”** means information relating to an identifiable, living, natural person and, where applicable, an identifiable, existing juristic person, including, but not limited to —
- 1.18.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
 - 1.18.2 information relating to the education or the medical, financial, criminal or employment history of the person;
 - 1.18.3 any identification number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
 - 1.18.4 the biometric information of the person;
 - 1.18.5 the personal opinions, views or preferences of the person;
 - 1.18.6 correspondence sent by the person which is implicitly or explicitly of a private or confidential nature, or further correspondence that would reveal the contents of the original correspondence;
 - 1.18.7 the views or opinions of another individual about the person; and
 - 1.18.8 the name of the person if it appears with other Personal Information relating to the person or if the

disclosure of the name itself would reveal information about the person;

- 1.19 **“Personal Requester”** means a Requester seeking access to a Record containing Personal Information about the Requester himself/herself.
- 1.20 **“POAJA”** means the Promotion of Administrative Justice Act (Act No.3 of 2000) as amended.
- 1.21 **“POPI” or “POPIA”** means the Protection of Personal Information Act (Act No. 4 of 2013).
- 1.22 **“Prescribed Form”** means any of the forms prescribed by the Act and the Regulations respectively.
- 1.23 **“Private Body”** means –
 - 1.23.1 a natural Person who conducts or has conducted on any trade, business or profession, but only in such capacity;
 - 1.23.2 a partnership which conducts or has conducted any trade, business or profession; or
 - 1.23.3 any former or existing juristic Person but excluding a Public Body.
- 1.24 **“Processing”** means any operational activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –
 - 1.24.1 the collection, receipt, recording, storage, updating or modification, retrieval; or
 - 1.24.2 dissemination by means of transmission, distribution or disclosure in any other form; or
 - 1.24.3 merging, linking as well as restriction, erasure or destruction of information.
- 1.25 **“Public Body”** means –
 - 1.25.1 any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
 - 1.25.2 any other functionary or institution when-
 - 1.25.2.1 exercising a power or performing a duty in terms of the Constitution or a provincial Constitution; or
 - 1.25.2.2 exercising a public power or performing a public function in terms of any legislation.
- 1.26 **“Record”** means any recorded information, regardless of form or medium, including written, electronic information, label, marketing, image, film, map, graph, drawing or tape which is in the possession or under the control of the Company, irrespective of whether it was created by the Company and regardless of when it came into existence.
- 1.27 **“Regulations”** means the Regulations relating to the Promotion of Access to Information, 2021 published in Government Gazette No. 45057 dated 07 August 2021.

- 1.28 **“Request”** means a request for access to a Record or information of the Company.
- 1.29 **“Requester”** means any Person, including a Public Body or an Official thereof, making a Request for access to a Record of the Company, including any Person acting on behalf of that Person or a “Complainant”.
- 1.30 **“SAHRC”** means the South African Human Rights Commission.
- 1.31 **“Signature”** means a signature contemplated in section 13 of the Electronic Communications and Transactions Act, 2002.
- 1.32 **“The Company”** means **SK TRUCKING (PTY) LTD**, a private company (**reg. no. 2014/175633/07**) incorporated in the Republic of South Africa.
- 1.33 **“Third Party”**, in relation to a Request for access, means any Person, excluding the Company or a Personal Requester.
- 1.34 In this Manual **paragraph headings** are for convenience only and are not to be used in its interpretation.
- 1.35 An **expression** which denotes –
- 1.35.1 any gender, includes the other gender;
 - 1.35.2 the singular, includes the plural and *vice versa*; and
 - 1.35.3 an Official includes a reference to that Official’s successors in title and assignees allowed in law.
- 1.36 Any reference in this Manual to –
- 1.36.1 **“business hours”** shall be construed as being the hours between 08h30 and 17h00 on any business day. Any reference to time shall be based upon South African Standard Time;
 - 1.36.2 **“days”** shall be construed as calendar days unless qualified by the word “business”, in which instance a **“business day”** and **“working days”** shall be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;
 - 1.36.3 **“law”** means any law of general application and includes common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) or statutory or regulatory body which has the force of law;
 - 1.36.4 **“person”** apart from the statutory definition shall also in the normal sense mean any Person, Company, Close Corporation, Trust, Partnership or other Entity, whether or not having separate legal personality; and
 - 1.36.5 **“writing”** means legible writing, in English, including any form of electronic communication contemplated in the Electronic Communications and Transactions Act, Act No. 25 of 2002.

- 1.37 The words **"include"** and **"including"** mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.38 The words **"will"** and **"must"** used in the context of any obligation or restriction imposed on a Person have the same meaning as the word **"shall"**.
- 1.39 Any substantive provision, conferring **rights** or **imposing obligations** on a Person and appearing in any of the definitions in paragraph 1 or elsewhere in this Manual, shall be given effect to as if it were a substantive provision in the body of the Manual.
- 1.40 **Words and expressions** defined in any paragraph shall, unless the application of any such word or expression is specifically limited to that paragraph, bear the meaning assigned to such word or expression throughout this Manual.
- 1.41 Unless otherwise provided, defined terms appearing in this Manual **in title case** shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 1.42 A reference to any **statutory enactment** shall be construed as a reference to that enactment as at the Signature Date, and as amended or substituted from time to time.
- 1.43 Any reference in this Manual to **"this Manual"** or in any other agreement or document shall be construed as a reference to this Manual.
- 1.44 Unless specifically otherwise provided, any **number of days** prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 1.45 If the due date for performance of any obligation in terms of this Manual is a day which is not a business day, then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding business day.
- 1.46 Where **figures** are referred to in **numerals** and in **words**, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.47 The use of any expression in this Manual covering a **process** available under South African law shall be construed as including any equivalent or analogous proceedings under the law of any other jurisdiction.
- 1.48 In this Manual the words **"paragraph"**, **"schedule"**, **"annexure"** or **"appendix"** refer to a paragraph, schedule, annexure or an appendix to this Manual.

2 PURPOSE OF THIS MANUAL

Section 32 of the Constitution provides for the right of access to information held by another Person when that information is required for the exercise or protection of any right. To give effect to this Constitutional right, the Promotion of Access to Information Act (PAIA) was enacted by Parliament in 2000 and regulations promulgated by the Minister of Justice in 2001. As no right is absolute, the right of access to information held by a Public or Private Body may be limited to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. POPIA, on the other hand explicitly protects Personal Information. Consideration of access to information is a process of balancing of rights.

Other legislation has also impacted on the flow of information and the restriction applicable in this regard.

The Company not only wishes to comply with this legislation but also wishes to promote an internal culture and business environment compatible with these values and principles. **This Manual** will provide for procedures and policies to enhance access to information held by the Company and matters connected therewith. The policies and procedures are designed to:

- expedite any Request for access
- provide clarity regarding the Officials to be approached in this regard
- set a standard for consideration of Requests for access
- align all internal policies to information compliance in general
- ensure that mandatory protection of information provided by PAIA is complied with in conjunction with the peremptory provisions of POPIA to protect Personal Information.

This Manual is not an isolated or stand-alone document. The Company endeavours to align all commercial and internal Records and policies to be fully information compliant. The Manual will refer to such policies where applicable and guide any Requester through the internal processes of the Company.

The aim of **this Manual** is to deal with Requests for access to information and Records in the most cost-effective and efficient way, with due consideration of the rights of the Requester, the Company and any Third Party.

This Manual must be read in conjunction with the Guide.

3 LEGAL STATUS AND APPLICATION OF LAW

- 3.1 Should any provision of this Manual be in contradiction to the Act, the Guide, or any other legislation, then the provisions of the Act, the Guide, or other legislation shall apply.
- 3.2 Nothing in this Manual prevents the Company from providing access to Personal Information or Records in the possession of the Company in a manner which is materially less onerous in terms of any legislation other than

provided for in this Manual or in the Act.

- 3.3 The Act and this Manual do not apply to Personal Information requested for criminal or civil proceedings.
- 3.4 The Act and this Manual apply to the exclusion of any provision or other legislation that prohibits or restricts the disclosure of a Record of the Company and that is materially inconsistent with the object or a provision of the Act or this Manual.
- 3.5 Unless specifically provided for in any commercial or other agreements, this Manual does not *per se* create any contractual relationship with any Requester or Person.
- 3.6 The Company shall be bound by the correctness of the information provided herein.
- 3.7 Failure to follow the procedures and comply with the conditions contained in this Manual may lead to the refusal of a Request for access to information.
- 3.8 When considering protection of Personal Information, the provisions of POPIA shall be applied. If other legislation provides for more extensive conditions for processing Personal Information, such other legislation shall prevail.
- 3.9 No provision in this Manual creates a right, interest or legitimate expectation to be provided with any Record or Personal Information. Each Request for access shall be considered on merit and shall not be refused without good reason.
- 3.10 By publishing this Manual and making it available as contemplated below, the Manual is placed in the public domain and becomes a public document.
- 3.11 The provisions of the Electronic Communications and Transactions Act, 2002, are applicable to all forms, records, documents or any information which is electronically communicated.

4 AVAILABILITY OF THIS MANUAL

This Manual as well as the Guide (in Afrikaans and English) shall be available:

- 4.1 on the Company's website (www.sktrucking.co.za), or as a summary in the event of a lengthy Manual with adequate information to obtain a complete version if required;
- 4.2 at the Head Office or main place of business as per **Schedule A**;
- 4.3 from the Information Officer of the Company (contact details as per **Schedule B**).

5 GUIDE AS PROVIDED FOR IN SECTION 10 OF THE ACT

- 5.1 The Information Regulator has compiled a Guide to the Act to assist members of the public as well as private and Public Bodies to access information and Records more effectively.

5.2 This Guide can be obtained from the Information Officer as per paragraph 4.2 and 4.3 above.

6 DETAILS OF THE COMPANY

- 6.1 The details of the Company are provided in **Schedule A**.
- 6.2 Only the details required in relation to this Manual are provided. Any other details are available from the Companies Intellectual Property Commission (CIPC).
- 6.3 As required by the Act, details of the Head of the Company and the Information Officer (optional) are provided in **Schedule B**.
- 6.4 Although also available from CIPC, the details of the other directors and prescribed officers and top senior management are provided in **Schedule C**.
- 6.5 The Company has appointed an Information Officer as per **Schedule B** to fulfil the obligations in terms of PAIA and POPIA.

7 VOLUNTARY DISCLOSURE AND AUTOMATIC AVAILABILITY OF CERTAIN RECORDS

- 7.1 The following Records are already in the public domain or are intended to be placed in the public domain. Access to such Records can be obtained without following the steps contained in this Manual. These Records can be categorised as those which:
- 7.1.1 the Company is compelled in terms of legislation to reveal to statutory officials so that they can perform their duties;
 - 7.1.2 can be purchased from the Company; or
 - 7.1.3 provided free of charge.
- 7.2 A more comprehensive list of these categories of information is provided in **Schedule D**. A Request for access to information and Records under this paragraph can be made to any Person contemplated in **Schedule C** and does not have to be directed to those stipulated in **Schedule B**.

8 NATURE OF BUSINESS AND BUSINESS ACTIVITIES

The Company delivers hazardous and non-hazardous goods(local and long distance). In order to understand the management of information, trade secrets and other information that the Company needs to protect, a more comprehensive list of business activities is provided in **Schedule E**. The Company must be affiliated with the following controlling/ regulatory/ statutory bodies:

- Road Transport Management System (RTMS)
- Safety and Quality assessment Systems (SQAS)

- Chemical & Allied Industries' Association (CAIA)

9 CONSTITUTION OF THE COMPANY

- 9.1 The Company's MOI (Memorandum of Incorporation) is available from the CIPC.
- 9.2 The Company utilises the standard MOI provided by CIPC.
- 9.3 The Company has not adopted any additional rules to the MOI.

10 GROUP STRUCTURES AND CONNECTED COMPANIES

- 10.1 The Company is not part of any holding/subsidiary structure or any associated companies via cross directorship or shareholding at this point in time, as per **Schedule F**.
- 10.2 In the event of a holding/subsidiary relationship or an association via cross-directorship or shareholding in the future, the procedure provided for in this Manual may be used to access information of those connected or related entities. The Information Officer as per **Schedule B** would guide the Requester in this regard.

11 RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION

- 11.1 Given the nature of the Company and accompanying business activities, the Company is from time to time in possession of records in terms of various pieces of legislation. A list of the legislation applicable on the Company can be found in **Schedule G**.
- 11.2 The principle is that this information is usually only available to Persons specified in such legislation. However, in order to promote access, any Request would be considered subject to the normal balancing of rights as envisaged in the purpose of this Manual above.
- 11.3 In dealing with a Request for Records held in terms of specific legislation, the Requester can exercise its rights by following the less onerous route.

12 PROCEDURES TO MAKE A REQUEST FOR ACCESS

- 12.1 The Requester must duly complete and sign the prescribed form as per **Annexure 1** and forward such to the Information Officer specified in **Schedule B**. Only the Information Officer mentioned in **Schedule B** may accept requests in terms of the Act and this Manual, unless provided for otherwise. Any reference to an Official in relation to any procedure for access shall only refer to an Information Officer mentioned in **Schedule B**.
- 12.2 The Information Officer must assist a Requester with any Request for access to information.
- 12.3 If a Request is made orally as a result of the illiteracy or a disability of a Requester, the Information Officer must complete the Prescribed Form on behalf of the Requester and provide a copy thereof to the Requester.

- 12.4 The Information Officer receiving a Request may refer the Request back to the Requester and insist that the prescribed form in terms of paragraph 12.1 above be used or that any additional information be provided such as the Information Officer may reasonably require to make a determination, in terms of the Act and this Manual.
- 12.5 Any Request or prescribed form referred back to the Requester shall be processed within seven (7) days of receipt of a Request.
- 12.6 If the Request is made on behalf of another Person, proof must be submitted of the capacity in which such Person makes the Request.
- 12.7 The Official shall notify the Requester as per the Prescribed Form as soon as practically possible, but not later than 30 days, of his/her decision to grant or refuse access. Access shall be granted in writing or in any reasonable manner as requested by the Requester.
- 12.8 If the Request for access is granted, the notice in terms of paragraph 12.5 above must state the following –
- 12.8.1 the Access fee (if any) to be paid upon access;
 - 12.8.2 the form in which access shall be given; and
 - 12.8.3 that the Requester may lodge an application with a Court to object to the Access fee to be paid or the form of access granted.
- 12.9 If the Request for access is refused, the notice in terms of paragraph 12.5 above must –
- 12.9.1 state adequate reasons for the refusal, including the provisions of the Act and this Manual on which such refusal is based;
 - 12.9.2 exclude from any such reasons any reference to the content of the Record; and
 - 12.9.3 state that the Requester may lodge an application with a Court to object to the refusal of the Request or may apply any other remedies available to the Requester.
- 12.10 The Information Officer to whom a Request has been addressed may once extend the period of 30 days referred to in paragraph 12.5 above (referred to as the “original period”) for a further period of not more than 30 days, if–
- 12.10.1 the Request is for a large number of Records or requires a search through a large number of Records and if compliance with the original period would unreasonably interfere with the activities of the Company concerned;
 - 12.10.2 the Request requires a search for Records in, or the collection thereof from, an office of the Company not situated within the same town or city as the office of the Head of the Company and which search cannot reasonably be completed within the original period;
 - 12.10.3 consultation among divisions of the Company or with another Company is necessary, or desirable to reach a decision regarding the Request and which cannot reasonably be completed within the original

period;

12.10.4 more than one of the circumstances contemplated above exist in respect of the Request, making compliance with the original period not reasonably possible; or

12.10.5 the Requester consents in writing to such extension.

12.11 If a period is extended in terms of paragraph 12.8 above, the Official must, as soon as reasonably possible, but in any event within 30 days after the Request is received, notify the Requester of such extension, the period of the extension and the reasons for the extension.

12.12 The notice in terms of paragraph 12.9 above must state –

12.12.1 the period of extension;

12.12.2 adequate reasons for the extension, including the provisions of the Act and this Manual that are relied upon; and

12.12.3 that the Requester may lodge an application with a Court against the extension.

12.13 Severability

12.13.1 If a Request is made for access to a Record of the Company containing information which may or must be refused, every part of the Record that does not contain such information, and where such information can reasonably be deleted, shall be disclosed.

12.13.2 If a Request for access to a part of a Record is granted and the other part of the Record is refused, the provisions of paragraph 12.6 and paragraph 12.7 above shall apply.

13 PRESCRIBED FEES

13.1 The Information Officer to whom a Request is made must by notice require the Requester to pay the prescribed fee (if any) before further processing the Request. The prescribed fees are provided in **Annexure 2** and as amended from time to time in terms of the Regulations. The payment of fees shall not be applicable to a personal Requester.

13.2 If the search for a Record of the Company in respect of which a Request for access by a Requester other than a Personal Requester, has been made, and the preparation of the Record for disclosure, in the opinion of the Information Officer concerned, would require more than the 6 (six) hours prescribed in the Regulations for this purpose, the Information Officer shall by notice require the Requester, other than a Personal Requester, to pay a deposit which shall not be more than one third of the Access fee that would be payable if the Request is granted.

13.3 The notice referred to in paragraph 13.2 above must state –

13.3.1 the amount of the deposit payable;

- 13.3.2 that the Requester may lodge an application with a Court against the tender or payment of the Access fee in terms of paragraph 12.5 above, or tender or payment of a deposit in terms of paragraph 13.2 above, as the case may be.
- 13.4 If a deposit has been paid in respect of a Request for access which is refused, the Information Officer concerned must repay the deposit to the Requester.
- 13.5 The Information Officer may withhold a Record until the Requester concerned has paid the applicable fees (if any).
- 13.6 A Requester whose Request for access to a Record has been granted must pay an Access fee for reproduction and for search and preparation, respectively, and for any time reasonably required in excess of the prescribed hours to search for and prepare (including making any arrangements) the Record for disclosure.
- 13.7 Access fees prescribed for purposes of paragraph 13.6 above must provide for a reasonable Access fee for –
- 13.7.1 the cost of making a copy of a Record, or a transcription of the content of a Record, if applicable, and the postal fee; and
 - 13.7.2 the time reasonably required to search for the Record and disclose the Record to the Requester;
 - 13.7.3 the cost of making any arrangement regarding the above search, preparation and disclosure to the Requester.
- 13.8 The charging of fees shall always be subject to the determination and exclusion of certain categories of persons as determined by the Minister or any other *Government Gazette* notice regulating fees and reproduction for specific professions.

14 RECORDS THAT ARE LOST CANNOT BE FOUND OR DO NOT EXIST

- 14.1 In the event that –
- 14.1.1 all reasonable steps have been taken to find a Record requested; and
 - 14.1.2 there are reasonable grounds for believing that the Record –
 - 14.1.2.1 is in the Company's possession but cannot be found; or
 - 14.1.2.2 does not exist;
 - 14.1.3 the Information Officer must, by way of affidavit or affirmation, notify the Requester that it is not possible to give access to that Record.
- 14.2 The affidavit or affirmation referred to in paragraph 14.1 above must give a full account of all steps taken to find the Record in question or to determine whether the Record exists, as the case may be, including all communications with every Person who conducted the search on behalf of the Information Officer. For purposes

of this Manual, the notice in terms of paragraph 14.1 above is to be regarded as a decision to refuse a Request for access to the Record concerned.

- 14.3 If, after notice is given in terms of paragraph 14.1 above, the Record in question is found, the Requester concerned must be given access to the Record unless access is refused on a ground for refusal contemplated in this Manual or the Act.

15 REFUSAL OR DEEMED REFUSAL OF REQUEST

- 15.1 If an Information Officer fails to make a decision within the 30-day period; or
- 15.2 If notice is given that the Record is lost or cannot be found or does not exist in terms of paragraph 14 above, it shall be deemed a refusal of a Request.
- 15.3 For all other instances, any written communication, be it on the prescribed form or not, refusing a Request for access shall constitute a refusal.

16 RIGHTS OF THIRD PARTIES

16.1 Notice to Third Parties:

- 16.1.1 The Information Officer considering a Request for access to a Record shall take all reasonable steps to inform a Third Party to whom or which the Record relates of the Request.
- 16.1.2 The Information Officer must inform a Third Party in terms of paragraph 16.1.1 above –
- 16.1.2.1 as soon as reasonably possible, but in any event within 21 days after that Request is received; and
 - 16.1.2.2 by the fastest means reasonably possible.
- 16.1.3 When informing a Third Party in terms of paragraph 16.1.1 above, the Official considering a Request for access to a Record must –
- 16.1.3.1 describe the content of the Record;
 - 16.1.3.2 furnish the name of the Requester;
 - 16.1.3.3 describe the provisions of the Act and other legislation applicable to the Record as the case may be;
 - 16.1.3.4 in any case where the Official believes that the public interest rules apply, describe those provisions in terms of the Act specifying which of the circumstances in the opinion of the Information Officer might apply and state the reasons why he or she is of the opinion that the Public Interest rules might apply; and
 - 16.1.3.5 within 21 days after the Third Party is informed –

- 16.1.3.5.1 make written or oral representations to the Information Officer why the Request for access should be refused;
- 16.1.3.5.2 appear in person or by means of representation before the Information Officer;
or
- 16.1.3.5.3 give written consent for the disclosure of the Record to the Requester.

16.2 Representation and consent by Third Parties:

- 16.2.1 A Third Party that is informed in terms of paragraph 16.1 above of a Request for access, may, within 21 days after being so informed –
 - 16.2.1.1 make written or oral representations to the Information Officer concerned as to why the Request should be refused; or
 - 16.2.1.2 appear in person or by means of representation before the Information Officer; or
 - 16.2.1.3 give written consent for the disclosure of the Request to the Requester concerned.
- 16.2.2 A Third Party that obtains knowledge about a Request for access other than in terms of paragraph 16.1 above may –
 - 16.2.2.1 make written or oral representations to the Information Officer concerned as to why the Request should be refused; or
 - 16.2.2.2 insist to appear in person or by means of representation before the Information Officer; or
 - 16.2.2.3 give written consent for the disclosure of the Request to the Requester concerned.

16.3 Decision on representation for refusal and notice thereof:

- 16.3.1 The Information Officer must, as soon as reasonably possible, but in any event within 30 days after every Third Party is informed as provided for in paragraph 16.1 above –
 - 16.3.1.1 decide, after due regard to any representations made by a Third Party in terms of paragraph 16.2 above, whether to grant the Request for access; and
 - 16.3.1.2 notify the Third Party so informed and a Third Party not informed in terms of paragraph 16.1 above but which made representations in terms of paragraph 16.2 above or is located before the decision is taken, of the decision.
- 16.3.2 If, after all reasonable steps have been taken as required by paragraph 16.1 above, 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 paragraph 16.2 above as to why the Request should be refused.
- 16.3.3 If the Request is granted, the notice must state –

- 16.3.3.1 adequate reasons for granting the Request, including the provisions of the Act, other legislation and this Manual relied upon to justify granting of the Request;
 - 16.3.3.2 that the Third Party may lodge an application with a Court against the decision of the Official within 30 days after notice is given and other remedies available have been utilised; and
 - 16.3.3.3 that the Requester shall be given access to the Record after the expiry of the applicable period contemplated in paragraph 16.3.3.2, unless an application is lodged with a Court or any other administrative remedy¹ is utilised within that period.
- 16.3.4 If the Information Officer decides in terms of paragraph 16.3.1 above to grant the Request for access, he or she must give the Requester access to the Record concerned after the expiry of 30 days of written notice having been given, unless an application against the decision is lodged with a Court or any other remedy is utilised within that period.

16.4 General rights of Data Subjects:

- 16.4.1 A Data Subject has the right to have his, her or its Personal Information processed in accordance with the conditions for the lawful processing of Personal Information as referred to in Chapter 3 of POPIA, including the right –
- 16.4.1.1 to be notified that –
 - 16.4.1.1.1 Personal Information about him, her or it is being collected as provided for in terms of section 18 of POPIA; or
 - 16.4.1.1.2 his, her or its Personal Information has been accessed or required by an unauthorised person as provided for in terms of section 22 of POPIA;
 - 16.4.1.2 to establish whether a Responsible Party holds Personal Information of that Data Subject and to request access to his, her or its Personal Information as provided for in terms of section 23 of POPIA;
 - 16.4.1.3 to request, where necessary, the correction, destruction or deletion of his, her or its Personal Information as provided for in terms of section 24 of POPIA;
 - 16.4.1.4 to object, on reasonable grounds relating to his, her or its particular situation to the processing of his, her or its Personal Information as provided for in terms of section 11(3)(a) of POPIA;
 - 16.4.1.5 to object to the processing of his, her or its Personal Information –
 - 16.4.1.5.1 at any time for purposes of direct marketing in terms of section 11(3)(b) of POPIA; or

¹ Paragraphs 21-23: other than criminal proceedings

16.4.1.5.2 in terms of section 69(3)(c) of POPIA

- 16.4.1.6 not to have his, her or its Personal Information processed for purposes of direct marketing by means of unsolicited electronic communications except as referred to in section 69(1) of POPIA;
- 16.4.1.7 not to be subject, under certain circumstances, to a decision which is based solely on the basis of the automated processing of his, her or its Personal Information intended to provide a profile of such person as provided for in terms of section 71 of POPIA;
- 16.4.1.8 to submit a complaint to the Regulator regarding the alleged interference with the Protection of Personal Information of any data subject or to submit a complaint to the Information Regulator in respect of a determination of an adjudicator as provided for in terms of section 74 of POPIA; and
- 16.4.1.9 to institute civil proceedings regarding the alleged interference with the protection of his, her, or its Personal Information as provided for in section 99 of POPIA.

17 GRANTING OF ACCESS TO A RECORD IN GENERAL

- 17.1 A Request for Personal Information shall only be processed in terms of the Act and POPIA if –
 - 17.1.1 the Data Subject consents to such processing;
 - 17.1.2 processing is necessary for the conclusion or execution of a contract to which the Data Subject is a Party;
 - 17.1.3 there is a legal obligation to proceed with processing;
 - 17.1.4 processing is required to protect the legitimate interests of the Data Subject;
 - 17.1.5 processing is necessary for a Public Body to perform a public law duty; or
 - 17.1.6 processing is necessary for the pursuit of legitimate interests of the Company;
 - 17.1.7 for a purely personal or household activity;
 - 17.1.8 by or on behalf of a Public Body if –
 - 17.1.8.1 national security is involved; or
 - 17.1.8.2 the purpose is to prevent, detect or investigate offences or to obtain proof of offences.
 - 17.1.9 solely for the purpose of literary or artistic expression, to the extent that the right to privacy is balanced with the right to freedom of expression;
 - 17.1.10 by Cabinet, its committees and the Executive Council of provinces;
 - 17.1.11 when the Information Regulator grants any exemptions or authorisations in terms of Section 37 or 57

of POPIA;

17.1.12 mandatory disclosure is in the public interest, such as the following –

17.1.12.1 The disclosure of the Record would reveal evidence of –

17.1.12.1.1 a substantial contravention of, or failure to comply with, the law; or

17.1.12.1.2 imminent and serious public safety or environmental risk; and

17.1.12.1.3 the public interest in the disclosure of the Record clearly outweighing the harm contemplated in the provision in question.

17.2 A Request for access to a Record may not be refused in terms of the Act insofar as it consists of information about the results of any product or environmental testing or other investigation supplied by, carried out by or on behalf of the Company, and when its disclosure would pose a serious public safety or environmental risk. The results of any product or environmental testing or other investigation do not include the results or preliminary testing or other investigation conducted for the purpose of developing methods of testing or other investigation.

18 REFUSAL OF REQUEST FOR ACCESS TO A RECORD IN TERMS OF OTHER LEGISLATION IN GENERAL

18.1 Certain information may be protected subject to an obligation of confidentiality by virtue of office, employment, profession or legal provision, or established by a written agreement.

18.2 A Request may be refused in the circumstances provided for in other legislation or as contemplated in POPIA.

18.3 The Act does not apply to a Record of a Public Body or Private Body if –

18.3.1 that Record is requested for the purpose of criminal or civil proceedings;

18.3.2 requested after the commencement of such criminal or civil proceedings, as the case may be; and

18.3.3 the production of or access to that Record for the purpose referred to in paragraph 18.3.1 above is provided for in any other legislation.

18.4 The Company may refuse a Request for access to a Record which is in its possession without the consent of a Data Subject.

18.5 The processing of any Personal Information will have to be stopped or suspended in the event of an enforcement notice issued by the Information Regulator.

18.6 A Request for access will also be refused should the Requester not be able to establish *locus standi* in terms of the Act or convince the Company of the right the Requester wants to protect or exercise.

18.7 Should the Requester be a Public Body, it is only required to prove that it acts in the public interest.

19 RECORDS HELD BY CONTRACTORS

19.1 A Record in the possession or under the control of the Company and forwarded or provided to any independent provider of goods and services (referred to as “Operators”) is regarded as being a Record of the Company. The Company engages the following contractors/operators:

19.1.1 Company Attorneys

19.1.2 Labour consultants

19.1.3 Auditors

19.1.4 BEE Consultants

19.1.5 Other Consultants/Professionals

19.2 A Request for access of any of the Company’s Records in the possession of the above-mentioned Operators must be directed to the Information stipulated in **Schedule B** or dealt with in terms of Supply Agreements concluded between the Company and such Operators.

20 CLASSIFICATION AND CATEGORIES OF SENSITIVE AND PROTECTED RECORDS

20.1 The following categories of Records are by virtue of their sensitivity protected by the Act and POPIA. Special rules apply and various other laws also apply to these Records. For expedience and clarity, these Records are categorised under two main groups, namely those related to natural people and those related to juristic persons such as Private Bodies:

20.1.1 Natural People

- Personal Information in general
- Special Personal Information

20.1.2 Private Bodies

- Research
- Sensitive commercial Records relating to trade secrets, etc.
- Sensitive commercial Records relating to trade secrets, etc. of other Private Bodies (Third Parties or Data Subjects)
- Records relating to the safety of individuals and protection of property
- Information protected subject to an obligation of confidentiality by virtue of office, employment, profession and privileged information or by agreement.

A. NATURAL PEOPLE
1. PERSONAL INFORMATION

Definition	Types of information	Records	Special provisions
Relates to an identifiable living, natural Person and, where applicable, an identifiable existing juristic Person. Includes information about a deceased individual.	Race	See Schedule H	• Section 63 of the Act • Section 26 of POPIA
	Gender		
	Sex		
	Pregnancy		
	Marital status		
	National or ethnic origin		
	Colour		
	Sexual orientation		
	Age		
	Physical or mental health		
	Disability		
	Religion		
	Conscience		
	Belief		
	Culture		
	Language		
	Birth or death		
	Education		
	Medical history		
	Financial history		
	Criminal history		
	Employment history		
	Biometric info		
	ID number		
	Symbol		
	E-mail address		
	Physical address		
	Telephone number		
	Private or confidential correspondence		
	Personal views, opinions or preferences		
	A name, if it appears together with other Personal Information or if disclosure of the name itself		

	would reveal Personal Information about the Person.		
	Views or opinions of another individual about a Person.		

A. NATURAL PEOPLE (continued)

2. SPECIAL PERSONAL INFORMATION

Types of information	Records	Special provisions
Religious or philosophical beliefs	See Schedule H	Section 28 of POPIA
Race or ethnic origin		Section 29 of POPIA
Trade Union Membership		Section 30 of POPIA
Political persuasion		Section 31 of POPIA
Health and sex life		Section 32 of POPI A
		Section 61 of the Act
		Section 63 (2) (d) of the Act
Criminal behaviour		Section 33 of POPIA
Biometrics		Section 33 of POPIA

B. PRIVATE BODIES

Definition	Types of information	Records	Special provisions
Research (Category 1)	A Record containing information about research being or to be carried out by or on behalf of a Third Party or the Company and the disclosure of which would be likely to expose and serious disadvantage –	Schedule I	Section 69 of the Act
	- the Third Party;		
	- a Person who is or will be carrying out the research on behalf of the Third Party;		
	- the subject matter of the research.		
Sensitive commercial Records of the Company (Category 2)	Contains trade secrets of the Company	Schedule I	Section 68 of the Act
	Contains financial, commercial, scientific or technical information, other than trade secrets, of the Company, the disclosure of		

	which would be likely to cause harm to the commercial or financial interests of the Company		
	Contains information, the disclosure of which could reasonably be expected –		
	- to put the Company at a disadvantage in contractual or other negotiations; or		
	- to prejudice the Company in commercial competition; or		
	Is a computer program, as defined in section 1(1) of the Copyright Act 1978 (Act No. 98 of 1978), owned by the Company, except insofar as it is required to give access to a Record to which access is granted in terms of this Act.		

B. PRIVATE BODIES

(continued)

Definition	Types of information	Records	Special provisions
Sensitive commercial Records relating to other Private Bodies (Category 3)	Trade secrets of a Third Party or Data Subject;	Schedule I	Section 64 of the Act
	Financial, commercial, scientific or technical information, other than trade secrets, of a Third Party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that Third Party; or		
	Information supplied in confidence by a Third Party, the disclosure of which could reasonably be expected –		
	- to put that Third Party at a disadvantage in contractual or other negotiations; or		
	- to prejudice that Third Party in commercial competition.		
	Records of the Company if its disclosure could reasonably be expected to endanger the life or physical safety of an individual.	Schedule I	

Records relating to the safety of individuals and protection of property (Category 4)	A Record of the Company if its disclosure would be likely to prejudice or impair the security of –		Section 66 of the Act
	- a building, structure or system, including, but not limited to, a computer or communication system;		
	- a means of transport; or		
	- any other property; or		
	- methods, systems, plans or procedures for the protection of-		
	- an individual in accordance with a witness protection scheme;		
	- the safety of the public, or any part of the public; or		
	- the security of property contemplated in terms of the Act.		

B. PRIVATE BODIES		(continued)	
Definition	Types of information	Records	Special provisions
Information protected subject to an obligation of confidentiality by virtue of office, employment, profession and privileged information or by agreement (Category 5)	- Privileged information - After commencement of criminal/civil proceedings	Schedule I	Section 67 of the Act
			Sections 5, 6 and 7 of the Act
			Contractual law
			Common law Attorney/client
			Companies Act
			POPI

21 FAIRNESS AND PREVENTION OF DISPUTES

21.1 The Act does not provide for an appeal procedure for Private Bodies in the event of refusal of access or any remedy for an aggrieved Requester other than an application to a Court.

21.2 Due to the time delay when approaching a Court and to adhere to the principles and values of the Constitution

and the Act and the purpose of this Manual, the Company adopted the following mechanisms as an alternative to Court proceedings in order to expedite access and to avoid unnecessary disputes.

- 21.3 Any alternative to Court proceedings introduced in paragraphs 22 and 23 below shall not detract in any way from an aggrieved Party's right to lodge an application as contemplated in the Act.
- 21.4 Any aggrieved Requester as Complainant is entitled to lodge a complaint in terms of Regulation 10 in the prescribed manner with the Information Regulator.

22 EXPERT OPINIONS

- 22.1 An Information Officer stipulated in **Schedule B** may refer any Request in terms of the Act and this Manual to an expert to –
 - 22.1.1 consider the matter as provided for below and express an opinion and give advice to the Official concerned;
 - 22.1.2 make a final determination if the Information Officer considers himself/herself compromised or not in a position to consider the matter objectively and fairly; or
 - 22.1.3 act as an appeals authority in the event of refusal by the Information Officer, and if an aggrieved Party has expressed dissatisfaction or lodged an application for reconsideration of the Request.
- 22.2 Whenever any Person is required to act "*as an expert and not as an arbitrator*" in terms of this Manual, then –
 - 22.2.1 the determination of the expert shall be final insofar as any internal remedies of an administrative nature are concerned;
 - 22.2.2 subject to any express provision to the contrary, the expert shall determine the liability for his or its charges, which shall be paid by the Company;
 - 22.2.3 the expert shall be entitled to determine such methods and processes as he or it may, in his or its sole discretion, deem appropriate in the circumstances, provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;
 - 22.2.4 the expert shall consult with the relevant parties (provided that the extent of the expert's consultation shall be in his or its sole discretion) prior to rendering a determination; and
 - 22.2.5 having regard to the sensitivity of any confidential information, the expert shall be entitled to take advice from any Person considered by him or it to have expert knowledge with reference to the matter in question.
 - 22.2.6 the provisions of POAJ shall be act as a guideline.
- 22.3 The period of 30 days shall apply irrespective of the use of an expert in terms of this paragraph.

23 ARBITRATION

- 23.1 Without detracting from the statutory right of a Requester to lodge a Court application, the Company and the Requester or any other aggrieved Party may, besides the procedure provided for in terms of paragraph 22 above, agree to resolve the dispute by means of arbitration.
- 23.2 Any dispute arising from or in connection with this Manual or the subject matter of this Manual, including, without limitation, any dispute concerning the following may be resolved by alternative means –
- 23.2.1 The interpretation and effect of the Act, legislation and this Manual;
- 23.2.2 The Parties' respective rights or obligations under the Act or this Manual.
- 23.3 Appointment of Arbitrator
- 23.3.1 The Parties shall agree on the arbitrator who shall be an attorney or advocate on the panel of arbitrators of the Arbitration Foundation of Southern Africa (**AFSA**). If agreement is not reached within 15 business days after any Party calls in writing for such agreement, the arbitrator shall in the interim be an attorney or advocate nominated by the Registrar of AFSA.
- 23.3.2 The Request to nominate an arbitrator shall be made in writing, outlining the claim and any counterclaim of which the Party concerned is aware and, if desired, suggesting suitable nominees for appointment as arbitrator. A copy shall be furnished to the Other Party who may, within 10 days, submit written comments on the Request to the addressee of the Request, with a copy to the first Party.
- 23.4 Venue and period for completion of Arbitration
- The arbitration shall be held in the town or city or the magisterial district of the main place of business of the Company, and the Parties shall endeavour to ensure that such arbitration is completed within 60 days after notice requiring the claim to be referred to arbitration is given.
- 23.5 Arbitration Act – Rules
- The arbitration shall be governed by the Arbitration Act, 1965, or any replacement Act, and shall take place in accordance with the Commercial Arbitration Rules of AFSA.
- 23.6 Application to court for urgent interim relief
- Nothing contained in paragraph 23 above, shall prohibit a Party from approaching any Court for urgent interim relief pending resolution of the dispute by arbitration.

24 APPLICATIONS TO COURT

- 24.1 In terms of the Act, a Requester or a Third party which is aggrieved by a decision of an Information Officer in relation to any matter relating to a Request for access, may –

- 24.1.1 by way of an application;
- 24.1.2 within 30 days;
- 24.1.3 apply to a Court for appropriate relief; and
- 24.1.4 for the purpose of receiving and being served with any Court notices, the Company nominates the persons as per **Schedule B** as the authorised Officials of the Company, and the physical address appearing in either **Schedule A or B** as the *domicilia citandi et executandi* for giving notice in terms of this paragraph.

25 OTHER REMEDIES

An aggrieved Party can also resort to the following remedies in an attempt to have a grievance addressed –

- 25.1 Report the matter to the Information Regulator who has extensive powers in terms of PAIA and POPIA to investigate and, amongst others, issue compliance notices, etc.
- 25.2 If the matter falls within the ambit of the Consumer Protection Act, report the matter to the National Consumer Tribunal whose details are available at www.thenct.org.za.
- 25.3 If any offence has been committed in terms of destroying, damaging, altering, concealing or falsifying of Records in terms of Section 90 of the Act or any contravention of Regulation 9 of the Regulations relating to the Manual or neglecting regular updates, or any other offences in terms of POPI, the matter may be reported to the Information Regulator or the South African Police Service or both.

ACCEPTANCE BY THE COMPANY BY VIRTUE OF THE FOLLOWING DULY AUTHORISED OFFICIAL:

AKESH KISSOONLALL

FULL NAMES OF OFFICIAL

CFO

DESIGNATION AND/OR POSITION

SCHEDULE A

DETAILS OF PRIVATE BODY (COMPANY)

REGISTERED NAME : SK TRUCKING (PTY) LTD

TRADING AS : SK TRUCKING

MAIN PLACE OF BUSINESS : 301 Ananda Road
Sea Cow Lake
Springfield Park
DURBAN
4001

CONTACT NUMBERS : +27 31 577 1925 (T)
+27 86 514 6890 (F)

E-MAIL ADDRESS : accounts@sktrucking.co.za
akesh@sktrucking.co.za
training@sktrucking.co.za

WEBSITE ADDRESS : www.sktrucking.co.za

SCHEDULE B

HEAD OF THE PRIVATE BODY (COMPANY)

NAME : Akesh Kissoonlall

POSITION : CFO

PHYSICAL ADDRESS : 301 Ananda Road
Sea Cow Lake
Springfield Park
DURBAN
4001

POSTAL ADDRESS : PO Box 3504
DURBAN
4000

CONTACT NUMBERS : +27 31 577 1925 (T)
+27 86 514 6890 (F)

E-MAIL : akesh@sktrucking.co.za

INFORMATION OFFICER:

NAME : Violet Nalliah

POSITION : HSSE/HR

PHYSICAL ADDRESS : 301 Ananda Road
Sea Cow Lake
Springfield Park
DURBAN
4001

POSTAL ADDRESS : PO Box 3504
DURBAN
4000

CONTACT NUMBERS : +27 31 577 1925 (T)
+27 86 514 6890 (F)

E-MAIL : training@sktrucking.co.za

Is Information Officer also appointed as such officer in terms of POPIA?

YES

Is Information Officer also the designated appointee in terms of
Consumer Protection Act?

YES

SCHEDULE C

OTHER DIRECTORS AND PRESCRIBED OFFICERS OF THE PRIVATE BODY (COMPANY)

DIRECTOR : Umar Devi Kissoonlall

DIRECTOR : Shamlall Kissoonlall

SCHEDULE D

AUTOMATICALLY AVAILABLE RECORDS AND ACCESS TO SUCH RECORDS: (Section 52 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000)) [Regulation 9A]

THE PRIVATE BODY (COMPANY)

DESCRIPTION OF CATEGORY OF RECORDS AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 52 (1) (a) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000	MANNER OF ACCESS TO RECORDS (e.g. website) (SECTION 52 (1) (b))
FOR INSPECTION IN TERMS OF SECTION 52 (1)(a)(iii):	
• Labour Contracts of Employment	• Inspection by Labour Inspector
• Letters of Employment	• Inspection by Bargaining Council Agents
• Pay slips	
• Occupational Health & Safety Assessments & Reports	• Inspection by Public Health Inspectors
FOR PURCHASING IN TERMS OF SECTION 52 (1)(a)(ii):	
FOR COPYING IN TERMS OF SECTION 52 (1)(a)(ii):	
AVAILABLE FREE OF CHARGE IN TERMS OF SECTION 52 (1)(a)(iii):	
• Business Cards	• Electronic by means of e-mail Request, website
• Business Profile – Facebook	
• Client General Newsletters	
• Company Profile	
• Leaflets - Marketing	
• Newspaper Adverts	• Hard copies from Employees, marketing staff
• Newspaper Articles and Columns	
• Product Brochures	
• Product Pamphlets	
• Quotations	
• Website	

SCHEDULE E

BUSINESS ACTIVITIES OF THE PRIVATE BODY (COMPANY)

SK TRUCKING (PTY) LTD is in the local and long-distance business for more than 30 years and have since grown to be a truly reputable South African service provider, providing the highest quality of service to their clients.

Their impeccable service delivery within the local and long-distance transport sector has sealed their reputation as a premier transporter in South Africa.

The selection of a transporter is a strategic business decision which must address the fundamental needs of a client. SK TRUCKING is in a position to fulfil these needs by providing both.

- Cost Efficiency
- Service Excellence

They specialise in the following services locally and nationally:

- Freight (Superlink Tautliners, Flat Bed Trailers and Triaxle Semi Tautliners carrying capacity)
- Bulk (Pressure and Non-Pressure insulated 30 000 / 35 000 litre 316 stainless steel tankers)
- Hazardous Cargo Movements
- Small to large contract work
- Containerised Cargo
- Isotanks
- Petroleum Products

SCHEDULE F

GROUP STRUCTURE(S) AND CONNECTED COMPANIES OF THE PRIVATE BODY (COMPANY)

- **SK TRUCKING (PTY) LTD** is not involved in any holding / subsidiary relationship.
- Cross Directorship / shareholding existing in relation to:

Entity name	:	HOLOGRAPHIX PROPERTIES 29 CC
Entity name	:	AVINO INVESTMENTS CC
Entity name	:	S K BOYZ (PTY) LTD
Entity name	:	SK ACQUISITIONS (PTY) LTD
Entity name	:	SK FUELS (PTY) LTD
Entity name	:	TWO SKTRUCKING (PTY) LTD
Entity name	:	1 SHAMTRANS (PTY) LTD
Entity name	:	1 SK AND SONS (PTY) LTD
Entity name	:	1 SK CAR SALES (PTY) LTD
Entity name	:	1 SK TRUCK AND CAR SALES (PTY) LTD
Entity name	:	NEELCHAND LOGISTICS (PTY) LTD
Entity name	:	1 N K LOGISTICS (PTY) LTD
Entity name	:	2 SK LOGISTICS (PTY) LTD
Entity name	:	TWO SK LOGISTICS (PTY) LTD
Director	:	SHAMLALL KISSOONLALL

Entity name	:	SK BULK HAULERS (PTY) LTD
Entity name	:	SK LOGISTICS (PTY) LTD
Entity name	:	SK AND SONS (PTY) LTD

Entity name : SK FUELS (PTY) LTD

Entity name : UK PROPERTIES (PTY) LTD

Entity name : 1 SHAMTRANS (PTY) LTD

Entity name : 86 ADDISON DRIVE (PTY) LTD

Entity name : UDK COMMERCIAL PROPERTIES (PTY) LTD

Entity name : LASHKA 26 (PTY) LTD

Director : UMAR DEVI KISSOONLALL

SCHEDULE G

LEGISLATION APPLICABLE TO THE PRIVATE BODY (COMPANY)

1. Apart from POPIA and PAIA, the following legislation also applies to the Company in respect of the protection of Personal Information and Records:
 - 1.1 Auditing Professions Act 26 of 2005
 - 1.2 Basic Conditions of Employment Act 75 of 1997
 - 1.3 Close Corporation Act 69 of 2008
 - 1.4 Companies Act 71 of 2008
 - 1.5 Consumer Protection Act 68 of 2008
 - 1.6 Electronic Communications and Transaction Act 25 of 2002
 - 1.7 Employment Equity Act 55 of 1998
 - 1.8 Financial Advisory and Intermediary Services Act 37 of 2002
 - 1.9 Financial Institutions (Protection of Funds) Act 28 of 2001
 - 1.10 Financial Intelligence Centre Act 38 of 2001 as amended in 2008
 - 1.11 Financial Services Ombud Schemes Act 37 of 2004
 - 1.12 Income Tax Act 58 of 1962
 - 1.13 Labour Relations Act 66 of 1995
 - 1.14 National Credit Act 34 of 2005
 - 1.15 Non-Profit Organisation Act 71 of 1997
 - 1.16 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
 - 1.17 Stock Exchanges Control Act 1 of 1985 and the rules and listings, requirements of the JSE Securities Exchange authorised in terms thereof

SCHEDULE H

LIST OF RECORDS OF NATURAL PEOPLE OF THE PRIVATE BODY (COMPANY)

PERSONAL INFORMATION	SPECIAL PERSONAL INFORMATION
Employment Equity Reports	
Employment Equity Plans	
Attendance Register	
Disciplinary Records	
Employee Information Records	Employee Information Records
Employment Applications	
Employment Contracts	
IRP 5 and IT 3 Certificates	
Letters of Appointment	
Leave Applications	
Maternity Leave Applications	
Payroll	
Recruitment and Appointments	
Salary Slips and Wage Registers	
Salary Slips and Wage Records	
Scholarships and Bursaries	
Staff Records after Employment	Staff Records after Employment
Study Assistance Schemes	
Time Records	
Training and Development	
UIF, PAYE and SDL Returns	
Workmen's Compensation	
Annual Training Reports	
Workplace Skills Plan	

Medical Records	Medical Records
Safety Incident Reports	
Resignation Letters	
Employee Confidentiality agreements	
Customer Confidentiality Agreements	
Agreements with Clients/Providers	
Race or Ethnic Origin	Race or Ethnic Origin
Health	Health
Criminal Behaviour	Criminal Behaviour
Standard MOI	

SCHEDULE I

CLASSIFICATION AND CATEGORIES FOR PROTECTION OF THE PRIVATE BODY (COMPANY)

– Paragraph 20

1. Automatically Available - AA:

Records available in the public domain or intended to be placed in the public domain.

2. Personal Information - PI:

An identifiable, living or deceased, natural person, and where applicable, an identifiable, existing juristic Person including, but not limited to pregnancy, age etc.

3. Special Personal Information - SPI:

Religious or Philosophical beliefs, Race or Ethnic origin, Trade Union Membership, Political persuasion, Health and sex life, Criminal Behaviour

4. Category 1:

A Record containing information about research being or to be carried out by or on behalf of a Third Party or the Company.

5. Category 2:

Sensitive commercial Records of the Company, Contains trade secrets of the Company etc.

6. Category 3:

Sensitive commercial Records relating to other Private Bodies. Trade secrets of a Third Party or Data Subject.

7. Category 4:

Records relating to the safety of individuals a protection of property

8. Category 5:

Information protected subject to an obligation of confidentiality by virtue of office, employment, profession and privileged information or by agreement

	AA	PI	SPI	CAT 1	CAT 2	CAT 3	CAT 4	CAT 5
ACCOUNTING/FINANCIAL RECORDS								
Financial Statements					X			
General Ledger					X			
Subsidiary Ledgers (receivables, payables etc.)					X	X		
Bank Statements					X			
Cheque Books & Cheques	-	-	-	-	-	-	-	-
Customer and Supplier Statements					X	X		
Invoices (general)	X				X	X		
Deposit Slips	-	-	-	-	-	-	-	-
Cash Books					X			
Petty Cash Books					X			
Fixed Asset Register					X			
Tax returns and Assessments					X			
VAT Returns					X			
Lease or Installments Sale Agreements					X			
Budgets Plans					X			
Business Plans					X			
Insurance Records					X			
Credit Agreements					X			
Capital Expenditure					X			
Invoices with T & C's	X				X	X		
Quotations	X				X	X		
Receipts					X	X		

Confirmation of Banking Details					X			
Cash Flow Projections					X			
Other	-	-	-	-	-	-	-	-
STAFF/EMPLOYEE RECORDS:								
Training manuals						X		
Salary scales					X			
Employment Equity Reports		X			X			
Employment Equity Plans		X			X			
Attendance Register		X						
Disciplinary Records		X						
Employee Information Records		X	X					X
Employee Loans	-	-	-	-	-	-	-	-
Employment Applications		X						
Employment Contracts		X						X
Group Life	-	-	-	-	-	-	-	-
IRP 5 and IT 3 Certificates		X			X			
Letters of Appointment		X						X
Leave Applications		X						
Maternity Leave Applications		X						
Payroll		X						X
Policies and Procedures							X	
Recruitment and Appointments		X				X		
Salary and Wage Registers		X						X
Salary Slips and Wage Records		X						X

Scholarships and Bursaries		X						
Staff Records after Employment		X	X					X
Study Assistance Schemes		X						
Time Records		X						
Labour Inspection Reports	-	-	-	-	-	-	-	-
Training and Development		X						
UIF, PAYE and SDL Returns		X			X			X
Workmen's Compensation		X			X			
OHS Reports					X		X	
OHS Assessments					X		X	
OHS Minutes					X		X	
Annual Training Reports		X						
Workplace Skills Plan		X			X			
CCMA/Labour Court/Bargaining Council Awards/Disputes	-	-	-	-	-	-	-	-
Medical Records		X	X					X
Safety Incident Reports		X					X	
Confidentiality Agreements	-	-	-	-	-	-	-	-
Resignation Letters		X						
Temporary Employment Records	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-
INSURANCE RECORDS:								
Claim Records					X			
Details of Coverage, Limits and Insurers					X			
Insurance Policies					X			

Other	-	-	-	-	-	-	-	-
INTELLECTUAL PROPERTY:								
License Agreements	-	-	-	-	-	-	-	-
Secrecy Agreements	-	-	-	-	-	-	-	-
Research and Development Agreements	-	-	-	-	-	-	-	-
Consulting Agreements	-	-	-	-	-	-	-	-
Use/Lease Agreements	-	-	-	-	-	-	-	-
Joint Venture Agreements	-	-	-	-	-	-	-	-
Join Development Agreements	-	-	-	-	-	-	-	-
Royalty Agreements	-	-	-	-	-	-	-	-
Franchise Agreements	-	-	-	-	-	-	-	-
Warranties	-	-	-	-	-	-	-	-
Settlement Agreements	-	-	-	-	-	-	-	-
Litigation Records	-	-	-	-	-	-	-	-
Service Agreements	-	-	-	-	-	-	-	-
Supplier Agreements	-	-	-	-	-	-	-	-
Merchant Agreements	-	-	-	-	-	-	-	-
Export Agreements	-	-	-	-	-	-	-	-
Import Agreements	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-
MARKETING RECORDS:								
Business Cards	X							
Business Profile – Facebook/World Wide Web	X							
Client General Newsletters	-	-	-	-	-	-	-	-
Company Profile	X							

Leaflets	-	-	-	-	-	-	-	-
News Paper Adverts	X							
News Paper Articles and Columns	-	-	-	-	-	-	-	-
Product Brochures	-	-	-	-	-	-	-	-
Product Pamphlets	-	-	-	-	-	-	-	-
Vouchers	-	-	-	-	-	-	-	-
Promotional Competitions	-	-	-	-	-	-	-	-
Labelling	-	-	-	-	-	-	-	-
Mail Shots	-	-	-	-	-	-	-	-
Prospectus	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-
TRADE SECRETS:								
Training Needs	-	-	-	-	-	-	-	-
Training Modules	-	-	-	-	-	-	-	-
Training Minutes	-	-	-	-	-	-	-	-
Price Schedules	-	-	-	-	-	-	-	-
Quality Controls	-	-	-	-	-	-	-	-
Product specification	-	-	-	-	-	-	-	-
Employee Confidentiality agreements		X			X			X
Customer Confidentiality Agreements		X			X			
Agreements with Clients/Providers		X			X			
Remuneration Tables/Schedules	-	-	-	-	-	-	-	-
Unique Procedures	-	-	-	-	-	-	-	-
Research Records obtained or Generated itself	-	-	-	-	-	-	-	-

Other	-	-	-	-	-	-	-	-
RECORDS REFLECTING SPECIAL PERSONAL INFORMATION:								
Religious or Philosophical Beliefs	-	-	-	-	-	-	-	-
Race or Ethnic Origin			X					
Trade Union Membership	-	-	-	-	-	-	-	-
Political Persuasion	-	-	-	-	-	-	-	-
Health			X					
Sex Life	-	-	-	-	-	-	-	-
Criminal Behaviour			X					
Biometrics	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-
CORPORATE GOVERNANCE RECORDS:								
Shareholders Agreements	-	-	-	-	-	-	-	-
Shareholders Certificates	-	-	-	-	-	-	-	-
Directors Resolutions	-	-	-	-	-	-	-	-
Directors Agreements	-	-	-	-	-	-	-	-
Standard MOI		X			X			
Special Drafted MOI	-	-	-	-	-	-	-	-

ANNEXURE 1

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY (COMPANY)

[Section 53(1) of the Promotion of Access to Information Act, 2000

(Act No. 2 of 2000)] [Regulation 10]

Note:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorization, 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 that is 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. All additional pages must be signed.)			
Description of record of 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 of printed form	
Record comprises virtual 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, transcriptions and information Held on computer or in an electronic or machine-readable form)	
Written or printed transcription of virtual images (this includes photographs, slides, video Recordings, computer-generated images, sketches, etc.)	
Transcription of soundtrack (written of 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 (including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)	
Postal services to postal address	
Postal services to street address	
Courier service to street address	

Facsimile of information in written or printed format (including transcriptions)	
E-mail of information (including soundtracks if possible)	
Cloud share/fire transfer	
Preferred language: (Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED

If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.

Indicate which right is to be exercised or protected:	
Explain why the record requested 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)

Signed at _____ this _____ day of _____ 20 ____.

Signature of Requester / person on whose behalf request is made

FOR OFFICIAL USE

Reference number:	
Request received by: (state rank, name and surname of information Officer)	
Date received:	
Access fees:	
Deposit (if any):	

Signature of Information Officer

ANNEXURE 2

FEES FOR RECORDS OF PRIVATE BODY (COMPANY)

Item	Description	Amount
1.	The request fee payable by every requester	R140.00
2.	Photocopy/printed black & white copy of A4-size page	R2.00 per page or part thereof.
3.	Printed copy of A4-size page	R2.00 per page or part thereof.
Item	Description	Amount
4.	For a copy in a computer-readable form on: (iii) Flash drive (to be provided by requestor) (iv) Compact disc - If provided by requestor - If provided to the requestor	R40.00 R40.00 R60.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6.	Copy of visual images	
7.	Transcription of an audio record, per A4-size page	R24.00
8.	Copy of an audio record on: (v) Flash drive (to be provided by requestor) (vi) Compact disc - If provided by requestor - If provided to the requestor	R40.00 R40.00 R60.00
9.	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of	R145.00 R435.00
10.	Deposit: If search exceeds 6 hours	One third of amount per request calculated in terms of items 2 to 8.
11.	Postage, e-mail or any other electronic transfer	Actual expense, if any.

FEES FOR RECORDS OF PUBLIC BODIES

Item	Description	Amount
1.	The request fee payable by every requester	R100.00
2.	Photocopy of A4-size page	R1.50 per page or part thereof.
3.	Printed copy of A4-size page	R1.50 per page or part thereof.
4.	For a copy in a computer-readable form on: (i) Flash drive (to be provided by requester) (ii) Compact disc - If provided by requester - If provided to the requester	R40.00 R40.00 R60.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6.	Copy of visual images	
7.	Transcription of an audio record, per A4-size page	R24.00
8.	Copy of an audio record on: (i) Flash drive (to be provided by requester) (ii) Compact disc - If provided by requester - If provided to the requester	R40.00 R40.00 R60.00
9.	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of	R100.00 R300.00
10.	Deposit: If search exceeds 6 hours	One third of amount per request calculated in terms of items 2 to 9.
11.	Postage, e-mail or any other electronic transfer	Actual expense, if any.

FORMS

1. Request for a copy of the guide
2. Request for access to record
3. Outcome of request and of fees payable
4. Lodging of an internal appeal
5. Lodging of complaint
6. Acknowledgement of receipt of complaint
7. Notification to information officer
8. Development and outcome of investigation
9. Settlement meeting
10. Settlement certificate
11. Conciliation of matter
12. Conciliation certificate
13. Request for an assessment
14. Notice of *request/Information Regulator's own decision to do an assessment
15. Decision with regards to conducting an assessment
16. Decision with regards to assessment

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

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:		

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

FORM 2
REQUEST FOR ACCESS TO RECORD
[Regulations 7]

Note:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorization, 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 that is 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. All additional pages must be signed.)				

Description of record of 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 virtual 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, transcriptions and information held on computer or in an electronic or machine-readable form)	
Written or printed transcription of virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)	
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 (including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)	
Postal services to postal address	
Postal services to street address	

Courier service to street address	
Facsimile of information in written or printed format (including transcriptions)	
E-mail of information (including soundtracks if possible)	
Cloud share/fire transfer	
Preferred language: (Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.
--

Indicate which right is to be exercised or protected:	
Explain why the record requested is required for the exercise or protection of the aforementioned right:	

FEES

- | |
|---|
| <p>a) A request fee must be paid before the request will be considered.</p> <p>b) You will be notified of the amount of the access fee to be paid.</p> <p>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.</p> <p>d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.</p> |
|---|

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)

Signed at _____ this _____ day of _____ 20 _____

Signature of Requester / Person on whose behalf request is made

FOR OFFICIAL USE

Reference number:	
Request received by: (state rank, name and surname of information Officer)	
Date received:	
Access fees:	
Deposit (if any):	

Signature of Information Officer

FORM 3
OUTCOME OF REQUEST AND FEES PAYABLE
[Regulations 8]

Note:

1. If your request is granted the –
 - (a) amount of deposit, (if any), is payable before your request is processed; and
 - (b) requested record/portion of the record will only be released once proof of full payment is received.
2. Please use the reference number hereunder in all future correspondence.

Reference number: _____

TO: _____

Your request dated _____ refers.

1. You requested:

Personal inspection of information at registered address of public/private body (including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form) is free of charge. You are required to make an appointment for the inspection of the information and to bring this Form with you. If you then require any form of reproduction of the information, you will be liable for the fees prescribed in Annexure B.

OR

2. You requested:

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

Written or printed transcription of virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

Transcription of soundtrack (written or printed document)

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

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

Copy of record saved on cloud storage server

3. To be submitted:

Postal services to postal address

Postal services to street address

Courier services to street address

Facsimile of information in written or printed format (including transcriptions)

E-mail of information (including soundtracks if possible)

Cloud share/file transfer	
Preferred language: (Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)	

Kindly note that your request has been:

- ☐ Approved
- ☐ Denied, for the following reasons:

4. Fees payable with regards to your request:

Item	Cost per A4-size page or part thereof/item	Number of Pages/items	Total
Photocopy			
Printed copy			
For a copy in a computer-readable form on:			
(i) Flash drive			
• To be provided by requestor	R40.00		
(ii) Compact disc			
• If provided by requestor	R40.00		
• If provided to the requestor	R60.00		
For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on the quotation of the service provider		
Copy of visual images			
Transcription of an audio record, per A4-size	R24.00		
Copy of an audio record			
(i) Flash drive			
• To be provided by requestor	R40.00		
(ii) Compact disc			
• If provided by requestor	R40.00		
• If provided to the requestor	R60.00		
Postage, e-mail or any other electronic transfer:	Actual costs		
TOTAL:			

5. Deposit payable (if search exceeds six hours):

☐

Yes

☐

No

Hours of search		Amount of deposit (Calculated on one third of total amount per request)	
-----------------	--	--	--

The amount must be paid into the following Bank account:

Name of Bank: _____

Name of account holder: _____

Type of account: _____

Account number: _____

Branch Code: _____

Reference No: _____

Submit proof of payment to: _____

Signed at _____ this _____ day of _____ 20 _____

Information Officer

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):		Facsimile:	
	Cellular:			
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):		Facsimile:	
	Cellular:			
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 FOR APPEAL (If the provided space is inadequate, please continue on a separate page and attach it to this form, all the additional pages must be signed.)				

State the grounds on which the internal Appeal is based:	
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		New decision (if not confirmed)	
	No			
Fees (Sec 22). Confirmed?	Yes		New decision (if not confirmed)	
	No			
Extension (Sec 26(1)). Confirmed?	Yes		New decision (if not confirmed)	
	No			
Access (Sec 29(3)). Confirmed?	Yes		New decision (if not confirmed)	
	No			
Request for access granted. Confirmed?	Yes		New decision (if not confirmed)	
	No			

Signed at _____ this _____ day of _____ 20 _____

Relevant Authority

FORM 5
LODGING OF COMPLAINT
[Regulation 10]

Note:

1. This form is designed to assist the Requester (hereinafter referred to as “the Complainant”) in requesting a review of a public or private body’s response or non-response to a request for access to records under the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (“PAIA”). Please fill out this form and send it to the Information Regulator or complete the online complaint form available at <https://www.justice.gov.za/inforeg/>
2. PAIA gives a member of the public a right to file a complaint with the Information Regulator about any of the nature of complaints detailed in Part E of this complaint form.
3. It is the policy of the Information Regulator to defer investigating or to reject a complaint if the Complainant has not first given the public or private body (herein after referred to as “the Body”) an opportunity to respond to and attempt to resolve the issue. To help the Body address your concerns prior to approaching the Information Regulator, you are required to complete the prescribed PAIA form and submit it to the Body.
4. A copy of this form will be provided to the Body that is the subject of your complaint. The information you provide on this form, attached to this form or that you supply later, will only be used to attempt to resolve your dispute, unless otherwise stated herein.
5. The Information Regulator will only accept your complaint once you confirm having complied with the prerequisites below.
6. Please attach copies of the following documents, if you have them:
 - Copy of the form to the Body requesting access to records;
 - The Body’s response to your complaint or access request;
 - Any other correspondence between you and the Body regarding your request;
 - Copy of the appeal form, if your complaint relate to a public body;
 - The Body’s response to your appeal;
 - Any other correspondence between you and the Body regarding your appeal;
 - Documentation authorizing you to act on behalf of another person (if applicable);
 - Court order or court documents relevant to your complaint, if any.
7. If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.

TO: The Information Regulator
P.O. Box 31533
Braamfontein
2017
E-mail address: inforeg@justice.gov.za
Tel number: +27 (0) 10 023 5200

CAPACITY OF PERSON/PARTY LODGING A COMPLAINT

(Mark with an "X")

☐

Complainant personally

☐

Representative of complainant

☐

Third party

PREREQUISITES

Did you submit request (PAIA form) for access to record of a public/private body?	Yes		No	
Has 30 days lapsed from the date on which you submitted your PAIA form?	Yes		No	
Did you exhaust all the internal appeal procedure against a decision of the Information officer of a public body?	Yes		No	
Have you applied to Court for appropriate relief regarding this matter?	Yes		No	

FOR INFORMATION REGULATOR'S USE ONLY

Received by: (Full names)			
Position:			
Signature:			
Complaint accepted:	Yes		No
Reference Number:			
<i>Date stamp</i>			

Postal address	Facsimile	Other electronic communication (Please specify)

PART A**PERSONAL INFORMATION OF COMPLAINANT**

Full names:			
Identity numbers:			
Postal Address:			
Street Address:			
E-mail Address			
Contact numbers:	Tel: (B):		Facsimile
	Cellular:		

PART B
REPRESENTATIVE INFORMATION

(Complete only if you will be represented. A Power of Attorney must be attached in complainant is represented, failing which the complaint will be rejected)

Full names of Representative:			
Nature of Representation			
Identity Number/Registration Number:			
Postal Address:			
Street Address:			
E-mail Address:			
Contact numbers:	Tel: (B):		Facsimile
	Cellular:		

PART C
THIRD PARTY INFORMATION
(Please attach letter of authorisation)

Type of body:	Private		Public	
Name of *public/private body:				
Registration number (if any):				
Name, surname and title of person authorized to lodge complaint:				
Postal Address:				
Street Address:				
E-mail Address:				
Contact numbers:	Tel. (B):		Facsimile	
	Cellular:			

PART D
BODY AGAINST WHICH THE COMPLAINT IS LODGED

Type of body:	Private		Public	
Name of *public/private body:				
Registration number (if any):				

Name, surname and title of person you dealt with at the public or private body to try to resolve your complaint or request to access of information:				
Postal Address:				
Street Address:				
E-mail Address:				
Contact numbers:	Tel. (B):		Facsimile	
	Cellular			
Reference number given (if any):				
PART E COMPLAINT Tell us about the steps you have taken to try to resolve your complaint (Complaints should first be submitted directly to the public body for response and possible resolution: there are limited exceptions)				
Date on which request for access to records submitted:				
Please specify the nature of the right(s) to be exercised or protected, if a complaint is against a private body:				
Have you attempted to resolve the matter with the organization?	Yes	☐	No	☐
If yes, when did you receive it? (Please attach the letter to this application.)				
Did you appeal against a decision of the information officer of the	Yes	☐	No	☐
If yes, when did you lodge an appeal?				
Have you applied to Court for appropriate relief regarding this matter	Yes	☐	No	☐

If yes, please indicate when was the matter adjusted by the Court? Please attach Court Order, if there is any.		
PART F DETAILED TYPE OF ACCESS TO RECORDS (Please select one or more of the following to describe your complaint to the information Regulator)		
Unsuccessful appeal: (Section 77A(2)(a) or Section 77A(3) of PAIA)	I have appealed against the decision of the public body and the appeal is unsuccessful.	
Unsuccessful application for condonation: (Section 77A(2)(b) and 75(2) of PAIA)	I filed my appeal against the decision of the public body late and applied for condonation. The condonation application was dismissed.	
Refusal of a request for access: (Section 77A(2)(c) (i) or 77A(2)(d)(i) or 77A(3)(b) of PAIA)	I requested access to information held by a body and that request was refused or partially refused.	
The body requires me to pay a fee and I feel its is excessive: (Sections 22 or 54 of PAIA)	Tender or payment of the prescribed fee	
	The tender or payment of a deposit.	
Repayment of deposit: (Section 22(4) of PAIA)	The information officer refused to repay a deposit paid in respect of a request for access which is refused.	
Disagree with time extension: (Section 26 or 57 of PAIA)	The body decided to extend the time limit for responding to my request, and I disagree with the requested time limit extension or a time extension taken to respond to my access request.	
Form of access denied: (Section 29(3) or 60(a) of PAIA)	I requested access in a particular and reasonable form and such form of access was refused.	
Deemed refusal: (Section 27 or 58 of PAIA)	It is more than 30 days since I made my request and I have not received a decision.	
	Extension period has expired and no response was received.	
Inappropriate disclosure of a record: (Mandatory grounds for refusal of access to record)	Records (that are subject to the grounds for refusal of access) have inappropriately/unreasonable been disclosed.	

No adequate reasons for the refusal of access: (Section 56(3)(a) of PAIA)	My request for access is refused, and no valid or adequate reasons for the refusal, were given, including the provisions of this Act which were relied upon for the refusal.	
Partial access to record: (Section 28(2) or 59(2) of PAIA)	Access to only a part of the requested record was granted and I believe that more of the records should have been disclosed.	
Fee waiver: (Section 22(8) or 54(8) of PAIA)	I am exempt for paying any fee and my request to waive the fees was refused.	
Records that cannot be found or do not exist: (Section 23 or 55 of PAIA)	The Body indicated that some or all of the requested records do not exist and I believe that more records do exist.	
Failure to disclose records:	The Body decided to grant me access to the requested records, but I have not received them.	
No jurisdiction (exercise or protection of any rights): (Section 50(1)(a) of PAIA)	The Body indicated that the requested records are excluded from PAIA and I disagree.	
Frivolous or vexatious request: (Section 45 of PAIA)	The Body indicated that my request is manifestly frivolous or vexatious and I disagree	
Other (Please explain):		

PART G EXPECTED OUTCOME

How do you think the Information Regulator can assist you? Describe the result or outcome that you seek.

PART H AGREEMENTS

The legal basis for the following agreements is explained in the Privacy Notice on how to file your complaint document. In order for the Information Regulator to process your complaint, you need to check each one of the checkboxes below to show your agreement:

☐

I agree that the Information Regulator may use the information provided in my complaint to assist it in researching issues relating to the promotion of the right of access to information as well as the protection of the right to privacy in South Africa. I understand that the Information Regulator will never include my personal or other identifying information in any public report, and that my personal information is still protected by the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). I understand that if I do not agree, the Information Regulator will still process my complaint.

- ☐ The Information in this Complaint Form is true to the best of my knowledge and belief.
- ☐ I authorize the Information Regulator to collect my personal complaint information (such as the information about me in this complaint form) and use it to process my human rights complaint relating to the right of access to information and / or the protection of the right to privacy.
- ☐ I authorize anyone (such as an employer, service provider, witness) who has information needed to process my complaint to share it with the Information Regulator, The Information Regulator can obtain this information by talking to witnesses or asking for written records. Depending on the nature of the complaint, these records could include personnel files or employer data, medical or hospital records, and financial or taxpayer information.
- ☐ If any of my contact information changes during the complaint process, it is my responsibility to inform the Information Regulator, otherwise my complaint could experience a delay or even be closed.

Signed at _____ this _____ day of _____ 20 _____

Complainant/Representative/Authorised person of Third party

FORM 6
ACKNOWLEDGEMENT OF RECEIPT OF COMPLAINT
[Regulation 11(1)]

Note: Please use the undermentioned reference number in all future correspondence.

Reference number: _____

TO: _____

COMPLAINT LODGED

Receipt of your complaint, regarding:

Unsuccessful appeal: (Section 77A(2)(a) or section 77A(3)(a) of PAIA)	I have appealed against the decision of the public body and the appeal is unsuccessful.	
Unsuccessful application for condonation (Sections 77A(2)(b) and 75(2) of PAIA)	I filed my appeal against the decision of the public body late and applied for condonation. The condonation application was dismissed.	
Refusal of a request for access: (Section 77A(2)(c)(i) or 77A(d)(i) of 77A(3)(b) of PAIA)	I requested access to information held by a body and that request was refused or partially refused.	
The body requires me to pay a fee and I feel it is excessive: (Section 22 or 54 of PAIA)	Tender or payment of the prescribed request fee.	
	The tender of payment of a deposit.	
Repayment of the deposit: (Section 22(4) of PAIA)	The information officer refused to repay a deposit paid in respect of a request for access which is refused.	
Disagree with time extension: (Section 26 or 57 of PAIA)	The body decided to extend the time limit for responding to my request, and I disagree with the requested time limit extension taken to respond to my access request.	
Form of access denied: (Section 27 or 58 of PAIA)	I requested access in a particular and reasonable form and such form of access was refused.	

Deemed refusal: (Section 27 or 58 of PAIA)	It is more than 30 days since I made my request and I have not received a decision.	
	Extension period has expired and no response was received.	
Inappropriate disclosure of a record: (Mandatory grounds for refusal of access to record)	Records (that are subject to the grounds for refusal of access) have inappropriately/unreasonable been disclosed.	
No adequate reasons for the refusal of access: (Section 56(3)(a) of PAIA)	My request for access is refused, and no valid or adequate reasons for the refusal, were given, including the provisions of this Act which were relied upon for the refusal.	
Partial access to record: (Section 28(2) or 59(2) of PAIA)	Access to only a part of the refused records was granted and I believe that more of the records should have been disclosed.	
Fee waiver: (Section 22(8) or 54(8) of PAIA)	I am exempt from paying any fee and my request to waive the fees was refused.	
Records that cannot be found or do not exist: (Section 23 or 55 of PAIA)	The Body indicated that some or all of the requested records do not exist and I believe that more records do exist.	
Failure to disclose records:	The Body decided to grant me access to the requested records, but I have not received them.	
No jurisdiction (exercise or protection of any rights): (Section 50(1)(a) of PAIA)	The Body indicated that the requested records are excluded from PAIA and I disagree.	
Frivolous or vexatious request: (Section 45 of PAIA)	The Body indicated that my request is manifestly frivolous or vexatious and I disagree.	
Other: (Please explain):		

is hereby acknowledged. Kindly note that the complaint will be dealt with as follows:

☐ The Information Regulator will investigate the complaint further.

☐ The complaint will be referred to the Enforcement Committee.

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

FORM 7
NOTIFICATION TO INFORMATION OFFICER
[Regulation 11(2)]

Note: Please use the undermentioned reference number in all future correspondence.

Reference number: _____

TO: _____

RE: COMPLAINT RECEIVED AND INTENTION TO INVESTIGATE

The following complaint was received from _____, ID number _____
on _____.

COMPLAINT LODGED		
Unsuccessful appeal: (Section 77A(2)(a) or 77A(3)(a) of PAIA)	I have appealed against the decision of the public body and the appeal is unsuccessful.	
Unsuccessful application for condonation: (Sections 77A(2)(b) and 75(2) of PAIA)	I filed my appeal against the decision of the public body late and applied for condonation. The condonation application was dismissed.	
Refusal of a request for access: (Section 77A(2)(c)(i) or 77A(d)(i) or 77A(3)(b) of PAIA)	I requested access to information held by a body and that request was refused or partially refused.	
The body requires me to pay a fee and I feel it is excessive: (Section 22 or 54 of PAIA)	Tender or payment of the prescribed request fee.	
	The tender or payment of a deposit.	
Repayment of the deposit: (Section 22(4) of PAIA)	The information officer refused to repay a deposit paid in respect of a request for access which is refused.	
Disagree with time extension: (Section 26 or 57 of PAIA)	The body decided to extend the time limit for responding to my request, and I disagree with the requested time limit extension or a time extension taken to respond to my access request.	

Form of access denied: (Section 29(3) or Sections 60(a) of PAIA)	I requested access in a particular and reasonable form and such form of access was refused.	
Deemed refusal: (Section 27 or 58 of PAIA)	It is more than 30 days since I made my request and I have not received a decision.	
	Extension period has expired and no response was received.	
Inappropriate disclosure of a record: (Mandatory grounds for refusal of access to record)	Records (that are subject to the grounds for refusal of access) have inappropriately/unreasonable been disclosed.	
No adequate reasons for the refusal of access: (Section 56(3)(a) of PAIA)	My request for access is refused, and no valid or adequate reasons for the refusal, were given, including the provisions of this Act which were relied upon for the refusal.	
Partial access to record: (Section 28(2) of 59(2) of PAIA)	Access to only a part of the requested records was granted and I believe that more of the records should have been disclosed.	
Fee Waiver: (Section 2(8) or 54(8) of PAIA)	I am exempt from paying any fee and my request to waive the fees was refused.	
Records that cannot be found or do not exist: (Section 23 or 55 of PAIA)	The Body indicated that some or all of the requested records do not exist and I believe that more records do exist.	
Failure to disclose records:	The Body decided to grant me access to the requested records, but I have not received them.	
No jurisdiction (exercise or protection of any rights): (Section 50(1)(a) of PAIA)	The Body indicated that the requested records are excluded from PAIA and I disagree.	
Frivolous or vexatious request: (Section 45 of PAIA)	The Body indicated that my request is manifestly frivolous or vexatious and I disagree.	
Other: (Please explain):		

You are hereby notified that the Information Regulator intends to investigate the matter. You are hereby requested to respond to the complaint and produce to the Information Regulator any information, item or document, on which your decision is based, within 20 working days after receipt of this notification.

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

FORM 8
DEVELOPMENT AND OUTCOME OF INVESTIGATION
[Regulation 11(5)]

Reference number: _____

TO: _____

RE: COMPLAINT LODGE WITH REGARDS TO _____

☐ The investigation is ongoing.

☐ The following decision is taken:

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

FORM 9
SETTLEMENT MEETING
[Regulation 12(2)]

Note: Please use the undermentioned reference number in all future correspondence.

Reference number: _____

TO: _____

RE: COMPLAINT LODGED WITH REGARDS TO: _____

KINDLY TAKE NOTE THAT:

- (a) It appears from the nature of the complaint and the response made in relation to the complaint, that it may be possible to secure a settlement between the parties concerned.
- (b) The Information Regulator has decided to act as facilitator in the matter.

YOU ARE HEREBY INVITED

to attend a conciliation meeting at (*place*) _____ on the _____ day of _____ 20____, at _____ (*time*) and on any subsequent date that may be required, regarding the above-mentioned matter.

Kindly confirm your attendance with the Information Regulator on/before _____

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

FORM 10
SETTLEMENT CERTIFICATE
[Regulation 12(4)]

Note: Please use the undermentioned reference number in all future correspondence.

Reference number: _____

IN THE MATTER BETWEEN

Full names	
Identity number	

Full names	
Identity number	

Full names	
Identity number	

Full names	
Identity number	

AND

Name of public/private body	
Name of information officer	

I, _____ in my capacity as facilitator in the matter between the above-mentioned parties.

HEREBY CERTIFY THAT:

☐ The matter has been resolved, and the following settlement reached:

☐ The matter has not been resolved, and will be referred back to in Information Regulator to be dealt with in terms of Section 77C of the Act

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

00000

FORM 11
CONCILIATION OF MATTER
[Regulation 13(2)]

Note: Please use the undermentioned reference number in all future correspondence.

Reference number: _____

TO: _____

RE: COMPLAINT LODGED WITH REGARDS TO: _____

KINDLY TAKE NOTE THAT:

- (a) It appears from the nature of the complaint and the response made in relation to the complaint, that it may be possible to secure a settlement between the parties concerned.
- (b) The Information Regulator has decided to act as facilitator in the matter.

YOU ARE HEREBY INVITED

to attend a conciliation meeting at (*place*) _____ on the _____ day of _____ 20____, at _____ (*time*) and on any subsequent date that may be required, regarding the above-mentioned matter.

Kindly confirm your attendance with the Information Regulator on/before _____

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

000000

FORM 12
CONCILIATION CERTIFICATE
[Regulation 13(5)]

Reference number: _____

IN THE MATTER BETWEEN

Full names	
Identity number	

Full names	
Identity number	

Full names	
Identity number	

Full names	
Identity number	

AND

Name of public/private body	
Name of information officer	

I, _____ in my capacity as facilitator in the matter between the above-mentioned parties.

HEREBY CERTIFY THAT:

☐ The matter has been resolved, and the following settlement reached:

☐ The matter has not been resolved, and will be referred back to Information Regulator to be dealt with in terms of Section 77C of the Act

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

FORM 13
REQUEST FOR ASSESSMENT
[Regulation 14(1)]

TO: The Information Regulator
P O Box 31533
Braamfontein
2017
E-mail address: infoereg@justice.gov.za
Tel number: +27 (0) 10 023 5200

1,

Full names			
Postal Address:			
Street Address:			
E-mail Address:			
Contact numbers:	Tel. (B):		Facsimile:
	Cellular:		

hereby in terms of section 77H of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), request that the Information Regulator assess whether the undermentioned public or private body generally complies with the provisions of the Act insofar as its policies and implementation procedures are concerned.

Name of public/private Body:			
Postal Address:			
Street Address:			
E-mail Address:			
Contact numbers:	Tel. (B):		Facsimile:
	Cellular:		

PARTICULARS OF INFORMATION TO BE ASSESSED

PERSONS AFFECTED BY THE RELEVANT INFORMATION PRACTICE/S

THE REASON WHY AN ASSESSMENT IS REQUESTED
SPECIFIC ASPECTS OF THE INFORMATION THAT THE ASSESSMENT SHOULD ADDRESS

Signed at _____ this _____ day of _____ 20 _____

Requester

FORM 14
NOTICE OF *REQUEST/INFORMATION REGULATOR'S OWN DECISION TO DO
AN ASSESSMENT
[Regulation 14(2)]

Reference number: _____

TO: _____

You are hereby notified that the Information Regulator--

☐ was requested to conduct an assessment

☐ has on its own initiative decided to conduct an assessment,

in terms of Section 77H of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

PARTICULARS OF INFORMATION TO BE ASSESSED

SPECIFIC ASPECTS OF THE INFORMATION THAT THE ASSESSMENT SHOULD ADDRESS

You are hereby invited to submit a written response, together with substantiated proof with regards to the
*request/the Information Regulator's own initiative to conduct an assessment on/before
_____.

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

FORM 15
DECISION WITH REGARDS TO CONDUCTING AN ASSESSMENT
[Regulation 14(3)]

Reference number: _____

TO: _____

The Information Regulator *was requested to conduct an assessment/ has on its own initiative decided to conduct an assessment, in terms of Section 77H of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), and has, after taking all the relevant information into consideration, to---

☐ proceed with an assessment; or.

☐ not to proceed with an assessment.

Signed at _____ this _____ day of _____ 20 _____

Information Regulator

FORM 16
DECISION WITH REGARDS TO ASSESSMENT
[Regulation 14(5)]

Reference number: _____

TO: _____

The Information Regulator *was requested to conduct an assessment/ has on its own initiative decided to conduct an assessment, in terms of Section 77H of Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), and has, after taking all the relevant information into consideration, formed the undermentioned views:

IEWS OF INFORMATION REGULATOR

☐

The Information Regulator hereby wishes to confirm that it wishes to take no further action in this regard.

☐

The Information Regulator hereby wishes to confirm that it wishes to take the following action in this regard:

Signed at _____ this _____ day of _____ 20 _____

Information Regulator



**INFORMATION
REGULATOR
(SOUTH AFRICA)**

*Ensuring protection of your personal information
and effective access to information*



GUIDE

**ON HOW TO USE THE
PROMOTION OF ACCESS TO INFORMATION ACT 2 OF
2000, AS AMENDED**

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PAIA GUIDE

FOREWORD BY THE CHAIRPERSON

The Constitution of the Republic of South Africa, 1996¹ ("Constitution") states that South Africa is a sovereign and democratic state that is founded on the advancement of human rights and an accountable, responsive and transparent system of governance as part of its values. Before South Africa became a constitutional democracy with an enforceable Bill of Rights, the system of Government in South Africa amongst others, resulted in a secretive and unresponsive culture in both public and private bodies which often led to the abuse of power and human rights violations. It is in this regard that section 32(1) of the Bill of Rights in the Constitution, provides for the right of access to information held by the state; and any information held by another person that is required for the exercise or protection of any rights. Section 32(2) of the Constitution in turn provides for the enactment of national legislation that will give effect to this right, by respecting, protecting, promoting and fulfilling this right.

The Promotion of Access to Information Act, No. 2 of 2000 (hereinafter referred to as "**PAIA**", or "the Act" interchangeably), as amended, is the national legislation which was enacted in accordance with the above-mentioned section 32(2) of the constitution.

The aim of **PAIA**, is to foster a culture of transparency and accountability in public and private bodies. It does that by giving effect to the right of access to information and actively promoting a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights and also to realise South Africa's goals of an open and participatory democracy.

This **PAIA** Guide has been developed in fulfilment of the Information Regulator's ("Regulator") obligation under Section 10 of the **PAIA**, which requires the Regulator to update and make available the existing Guide that has been compiled by the South African Human Rights Commission.

This Guide has been designed to be a guiding, user-friendly and accessible tool for any person who wishes to exercise any right contemplated in **PAIA** and the Protection of Personal Information Act, 2013.



Adv Pansy Tlakula

CHAIRPERSON OF THE INFORMATION REGULATOR

¹ Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)

DISCLAIMER

*This Guide does not relieve the user from the responsibility to exercise their own skill and care in relation to the requirement or obligations imposed by any legislation. Furthermore, this Guide does not provide legal advice and is not intended to replace **PAIA** or Regulations issued under **PAIA**. The Regulator accepts no liability for any loss that may be suffered as a result of reliance on this Guide.*

1. LIST OF ACRONYMS AND ABBREVIATIONS

CEO	Chief Executive Officer
CFO	Chief Financial Officer
Constitution	Constitution of the Republic of South Africa, Act No. 108 of 1996
DIO	Deputy Information Officer
DoJ & CD	Department of Justice and Constitutional Development
IO	Information Officer
Members	Members of the Information Regulator
Minister	Minister of Justice and Correctional Services
PAIA	Promotion of Administrative Justice Act, 2000
PFMA	Public Finance Management Act No. 1 of 1999 as amended
POPIA	Protection of Personal Information Act No. 4 of 2013
Regulator	Information Regulator
SAHRC	South African Human Rights Commission

2. USEFUL TERMS EXPLAINED IN AN EASILY COMPREHENSIBLE FORM AND MANNER

Term	Description
Access Fee	This access fee is paid by the requester to the body from which you are requesting the information, to cover the costs of finding and copying the records you require. What can be charged is prescribed by regulation.
Administrator	Is an organ of state or any natural or juristic person taking administrative action.

Term	Description
Administrative Action	Is any decision taken, or any failure to take a decision, by (a) an organ of state, when: (i) exercising a power in terms of the Constitution or a provincial constitution; or (ii) exercising a public power or performing a public function in terms of any legislation; or (b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision. which adversely affects the rights of any person and which has a direct, external legal effect.
Authorised Person	The authorised person is the person who is making a request on behalf of someone else, and who has been properly authorised in writing to do so.
Automatically Available Records	These are records that a public or private body will provide to a requester without them needing to file a request. These records are listed in a 'voluntary disclosure notice', which should be made public.
Data Subject	Is the person to whom personal information relates.
Days	Unless specified as a 'working day' in a section in PAIA , a day is considered to be a calendar day. To calculate time period, the day on which the request is received is excluded, and every day thereafter is included including weekends and public holidays until the final day is counted. If the final day for responding to a request falls on a Sunday or public holiday, the next day is counted as the final day.
Deemed Refusal	If no response is received to a request within the prescribed time, this is defined as a 'deemed refusal'.
Form 2	This form is prescribed by regulation and should be used to request access to information held by a public or private body.
Form 4	This form is prescribed by regulation and should be used when appealing a decision made by a public body in relation to a request for access to information.

Term	Description
Guide	This Guide, made in pursuance of section 10 of PAIA , as amended which seeks to assist a person who wishes to exercise any right contemplated in PAIA and the Protection of Personal Information Act, 2013.

Information Officer

The information Officer is the person authorised to handle **PAIA** requests. The following are categories of Information Officers per specific Body -

Public Body or Organ of State (as defined in section 239 of the Constitution)	National Department	Director-General or the person who is acting as such.
	Provincial Administration	Head of Department or the person who is acting as such.
	Municipality	Municipal Manager or the person who is acting as such.
	Public Institutions listed in PFMA Schedule 1, 2, 3A, 3B, 3C & 3D	Chief Executive Officer or the person who is acting as such.
Private Body	Natural Person	Sole proprietor who carries on any trade business or profession, but only in such capacity and not in his personal capacity.
	Partnership	Any partner of the partnership or any person duly authorised by the partnership.
	Political Party	Leader of the political party or any person duly authorised by that leader.

Term	Description		
Information Officer	Private Body	Juristic Person	Chief Executive Officer or the Managing Director or equivalent officer of the juristic person or any person duly authorised by the leader. NB: The Chief Executive Officer or equivalent officer may authorise any natural person as information Officer of a Private Body.
Deputy Information Officer	The Deputy Information Officer is the person designed or delegated by the Information Officer of a public body to assist the requester with their information request, and to whom the Information Officer can delegate other PAIA powers to. NB: Whilst only a public body can designate or delegate a Deputy Information Officer(s), in terms of Section 17(1) of PAIA, the Protection of Personal Information Act 2013 ("POPIA") extends the power to designate a Deputy Information Officer to the private body in terms of section 56(1) thereof.		
Information Regulator	The Office of the Information Regulator has been established, in terms of section 39 of POPIA, to monitor and enforce compliance with both POPIA and PAIA. In this Guide the Office of the Information Regulator or the information Regulator is referred to as the Regulator.		
Internal Appeal	An internal appeal is the process for challenging a decision made in terms of a PAIA request to a public body, which must be completed before a challenge can be made to the Regulator or to a court having jurisdiction.		
Private Body	A private body is a person, company or other kind of juristic entity that carries on trade, business or profession, including a political party.		

Term	Description
Public Body	A private body means a government department or other functionary or institution, which is performing a public function. However, with regard to internal appeal, any reference to “public body” has been changed to “Government”, in order to avoid confusion in respect of public bodies in which appeal is not applicable.
Record	A record is any recorded information regardless of the form, including, for example, written documents, audio, digital and video materials. A record requested from a public or private body refers to a record that is in that body’s possession regardless of whether that body created the record.
Regulations	PAIA allows the Minister to issue regulations that supplement the Act, which must be published in the Government Gazette, and covers issues like the forms to be used and fees that may be charged for certain processes.
Relevant Authority	PAIA uses the term the ‘relevant authority’ to define the person within a National, Provincial and Local Government to whom an internal appeal must be lodged, which is generally the political head of the body concerned (this function can be officially delegated).

3. CONTACT DETAILS OF THE REGULATOR

Information Officer

Chief Executive Officer:

Contact Person:

Email:

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PNenweli@justice.gov.za

Deputy Information Officer:

Email:

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VarSewlal@justice.gov.za

Physical Address:

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2001

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010 023 5200

4. PURPOSE OF THIS PAIA GUIDE

- 4.1 The purpose of this Guide is to provide information that is needed by any person who wishes to exercise any right contemplated in the Promotion of Access to Information Act of 2000 (**PAIA**) and Protection of Personal Information Act, 2013 ("**POPIA**"). Any person, irrespective of citizenship, can apply for access to information under **PAIA**.
- 4.2 This Guide will specifically assist a person, also called a data subject, on how to access his/her personal information in terms of section 23 of **POPIA**. Under **POPIA**, person or data subject has the right to -
 - 4.2.1 request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about them, and
 - 4.2.2 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;
 - 4.2.3 request a responsible party to -
 - (a) 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
 - (b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain.
- 4.3 This guide will also assist any person on how to request access to records under **PAIA**. The Guide will also assist requesters in:
 - 4.3.1 understanding **PAIA**, its benefits and background;
 - 4.3.2 learning the step-by-step process by which to make a request and additional tips for making that process easier;
 - 4.3.3 learning the types of information which can be requested using **PAIA**;
 - 4.3.4 understanding the process by which a requester can challenge a decision taken in relation to their request;

4.3.5 being introduced to the changes that will occur to **PAIA** once **POPIA** is fully operational.

4.4 This guide will also assist people in understanding how to challenge the granting of access to their records or how to participate in the process of accessing their records.

5. ABOUT PAIA

5.1 The right to access to information is "one of the most effective ways of upholding the constitutional values of *transparency, openness, participation and accountability*². The above-mentioned constitutional values cannot be attained if the government has a monopoly on the information that informs its actions and decisions. Therefore, access to information is not only fundamental to a properly functioning participatory democracy, but it also increases public confidence in government and enhances its legitimacy. Other benefits of the right to access to information are for instance, that it discourages fraud and corruption, uncertainty and other improper governmental conduct.

5.2 When the South African Constitution was being drafted in the period following the fall of Apartheid in the 1990s, various organisations and individuals campaigned for the inclusion of a right of access to information. It was hoped that the inclusion of this right in the Bill of Rights would ensure that atrocities such as Apartheid could never again take place, as the state and private corporations would be obliged to act in an accountable and transparent manner by providing access to information, and therefore, would be unable to hide behind the veil of secrecy. It was seen as a necessary step for helping to create a culture of justification that would lead to fairer relations between people, and those in power. In one of the earliest cases³ to deal with the question whether an accused person is entitled to access to all the information contained in the police docket. Jones J acknowledged its importance in these terms:

"The purpose ... is to exclude the perpetuation of the old system of administration, a system in which it was possible for government to escape accountability by refusing to disclose information even if it had bearing upon the exercise or protection of rights of the individual. This is the mischief it is designed to prevent [...]. Demonstrable fairness and openness promotes public confidence in the administration of public affairs generally. This confidence is one of the characteristics of the democratically governed society for which the Constitution strives".

² Hoexter Administrative Law 94

³ 1994 (1) SACR 635 (E)

- 5.3 Section 32 of the Constitution enshrines the right of access to information held by both public and private bodies. Section 32 also states that legislation must be enacted to give effect to the right of access to information by detailing the ways in which information from public and private bodies can be accessed, and by providing grounds on which a public and private body could refuse access to information.
- 5.4 **PAIA** was enacted in response to the above-mentioned constitutional mandate, and came into force in large part in March 2001. Its preamble acknowledges the "secretive and unresponsive culture" of the pre-democratic era, and asserts that one of the objects of **PAIA** is to "foster a culture of transparency and accountability in public and private bodies."
- 5.5 **PAIA** is meant to give effect to a person's rights of access to information and accountability. It is designed to empower people to use the law, and so helps to facilitate requesting access to information in different ways. One does not need a lawyer to make a request for access to information in terms of **PAIA**.

6. THE OBJECTS OF PAIA

- 6.1 The objects of **PAIA** are not to replace the constitutional right, but to give effect to the right in section 32 subject to justifiable limitations, and in a way which helps balance all the other rights contained in the Constitution. It hopes to promote a human rights culture and social justice for people, the public sector and the private sector. **PAIA** seeks to promote transparency, accountability and effective governance of all institutions (both public and private) by empowering people to understand their access to information rights, act on them, and both scrutinise, and engage with, decision-making that affects them.
- 6.2 The right of access to information is a very powerful constitutional right, as it helps people realise other rights. A person can use it to help monitor and assess the delivery of government services, or to access historical records that might be of interest.
- 6.3 The objectives of **PAIA** are -
- 6.3.1 to give effect to the constitutional right of access to
 - 6.3.1.1 any information held by the State; and
 - 6.3.1.2 any information that is held by another person and that is required for the exercise or protection of any rights.

- The requirement relating to the protection of rights is confined to information held in private hands. Private bodies are thus subjected to a less stringent standard of transparency than public bodies. The private sector, in other words, is entitled to keep its information to itself, unless that information is needed to protect rights.
- **PAIA** recognises, in terms of Section 8(1) thereof, that a body may be "public" or "private" for the purposes of the Act depending on whether the record in question "relates to the exercise of a power or the performance of a function as a public body or as a private body."

6.3.2 to give effect to that right -

6.3.2.1 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

6.3.2.2 in a manner which balances that right with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution;

6.3.3 to give effect to the constitutional obligations of the State in promoting a human rights culture and social justice, by including public bodies in the definition of 'requester', and allowing them, amongst others, to access information from private bodies upon compliance with the four requirements in this Act, including an additional obligation for certain public bodies in certain instances to act in the public interest;

6.3.4 to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible; and

6.3.5 generally, to promote transparency, accountability and effective governance of all public and private bodies by, including but not limited to, empowering and educating everyone -

6.3.5.1 to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;

6.3.5.2 to understand the functions and operation of public bodies; and

6.3.5.3 to effectively scrutinise, and participate in, decision-making by public bodies that affects their rights.

6.4 The Promotion of Access to Information Amendment Act, 2019

- 6.4.1 In the matter of ***My Vote Counts NPC v Minister of Justice and Correctional Services and Another* [2018] ZACC 17**, the constitutional court held that *“the State is under an obligation that flows from a proper reading of sections 32, 19 and 7(2) of the Constitution to do everything reasonably possible to give practical and meaningful expression to the right of access to information and the right to vote. The majority further contended that this is so because the exercise of the right to vote must be an informed choice, and there is a vital connection between the proper exercise of the right to vote and the right of access to information. And “without access to information, the ability of citizens to make responsible political decisions and participate meaningfully in public life is undermined”.* The Constitutional Court confirmed the order of constitutional invalidity and ordered Parliament to amend **PAIA** and take any other measure it deems appropriate to provide for the recordal, preservation and facilitation of reasonable access to information on the private funding of political parties and independent candidates within a period of 18 months.
- 6.4.2 In accordance with the above-mentioned constitutional court judgment, the President has, on 3rd June 2019, assented to the Promotion of Access to Information Amendment Act, 2019 (**PAIA amendment Act 2019**)⁴. The **PAIA** amendment Act 2019 includes a political party in the definition of a private body, which effectively means that the leader of the political party or any person duly authorised by that leader is an information officer or head. The **PAIA** amendment Act 2019 now extends the right of access to any records of the political party.
- 6.4.3 The amendment Act provides for information on the private funding of political parties and independent candidates to be recorded, preserved and made available.
- 6.4.4 In terms of section 52A of the **PAIA** amendment Act 2019, the head of a political party must create and keep records of any donation exceeding the prescribed threshold, of **R100 000.00**, that has been made to that political party in any given financial year and the identity of the persons or entities who made such donations. The head of a political party is also required to make the records available on a quarterly basis, as prescribed; and keep the records for a period of at least five years after the records concerned have been created.

⁴ Promotion of Access to Information Amendment Act, No. 31 of 2019

6.4.5 This means that whilst the Political Party Funding Act makes provision for mandatory disclosure to the Electoral Commission, the **PAIA** amendment Act 2019 now extends the right of access, to the records of any donation exceeding **R100 000.00**, to any person, that has been made to that political party.

6.5 Other legislation that protects the right of access to information

PAIA also exists within a whole legal environment, which is designed to create a “culture of justification”. In recognition of this, **PAIA** states that any other law that gives a person an avenue for accessing information that is less onerous than **PAIA**, can be used instead⁵.

6.5.1 Companies Act 71 of 2008

6.5.1.1 Section 26(1) of the Companies Act provides a person who holds or has a beneficial interest in any securities issued by a profit company, or who is a member of a non-profit company, has a right to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the records of the company.

6.5.1.2 In terms of section 26(7)(b) of the Companies Act, “the rights of access to information set out in this section are in addition to, and not in substitution for, any rights a person may have to access information in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)”.

6.5.2 The Political Party Funding Act, 2018 (Act No. 6 of 2018)

6.5.2.1 The Political Funding introduces a strict regulatory framework for the private funding of all registered political parties, whether represented in the national and provincial legislatures or not. This includes setting limits for the source, size and use of donated funds by political parties.

6.5.2.2 To ensure transparency and accountability, political parties are required to disclose all donations received above the disclosure threshold of **R100 000.00** to the Electoral Commission regularly every three months (as well as ahead of general elections).

⁵ Section 2(1) of PAIA

6.5.2.3 Any person or organisation making a donation to a political party which individually or cumulatively exceeds **R100 000.00** per year must report that donation to the Electoral Commission within 30 days of making the donation or within 30 days of when the cumulative donations exceeded **R100 000.00**.

6.5.2.4 Lastly, the Political Party Funding Act places an obligation on the Electoral Commission to make public every three months the donations reported by political parties and to report annually to Parliament on all donations made to political parties during the year.

6.5.3 Protection of Personal Information Act, 2013 (Act No. 4 of 2013)

6.5.3.1 Section 23 of **POPIA** provides the data subject with the right of access to personal information 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.

6.5.3.2 This means that whilst access to a record containing personal information about a requester is excluded from **PAIA** in terms Section 11(2) thereof, data subject can request –

6.5.3.2.1 access to his/her personal information; and/or

6.5.3.2.2 identity of all third parties, and/or categories of third parties, who have, or have had, access to the information.

6.5.3.2.3 correction or deletion of 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

6.5.3.2.4 the record of his/her personal information that the responsible party is no longer authorised to retain to be destroyed or deleted.

6.5.3.3 A responsible party may refuse to disclose any personal information requested, in accordance with the grounds for refusal of access to records, as set out in paragraph 19.4 below.

6.5.4 The Promotion of Administrative Justice Act 3 of 2000

- 6.5.4.1 Another important law to remember when considering access to information is the Promotion of Administrative Justice Act (**PAJA**). **PAJA** gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33(2) of the Constitution⁶.
- 6.5.4.2 In terms of section 5(1) of **PAJA**, any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may, within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action, request that the administrator concerned to furnish written reasons for the action. The administrator to whom the request is made must, within 90 days after receiving the request, give that person adequate reason in writing for the administrative action.

7. ESTABLISHMENT OF THE INFORMATION REGULATOR

- 7.1 To ensure the promotion and enhancement of the **PAIA** objectives, which are to give effect to that right of access to information in a manner which enables persons to obtain access to records of public and private bodies as swiftly and inexpensively as reasonably possible, the Information Regulator (“the Regulator”) was established in terms of section 39 of **POPIA**.
- 7.2 In order to ensure that uncomplicated and inexpensive administrative procedures follow when a request for access to information is made, complaints to the Regulator and court applications should be the exception rather than the rule.
- 7.3 **POPIA** amends the role of the **SAHRC** in relation to the **PAIA** mandate. Effective from 30 June 2021, all the functions of the **SAHRC**, as enumerated in **PAIA**, will be handled by the Regulator, which also has additional enforcement powers.
- 7.4 Whilst the **SAHRC** will still maintain its broader constitutional obligations to promote, protect and monitor the rights enshrined in the Bill of Rights, the **SAHRC** and the Regulator will work closely alongside one another.

⁶ Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.

8. THE ROLE OF THE INFORMATION REGULATOR

- 8.1 The Regulator has a very important role in relation to **PAIA**. The Regulator is mandated by **PAIA**, under Part 4, Chapter 1A and Part 5 and other sections, to:
 - 8.1.1 promote the right of access to information and assist the public in using **PAIA** where reasonably possible to do so,
 - 8.1.2 monitor and further the implementation of **PAIA** by public and private bodies (which includes promoting effective ways to make information timeously available),
 - 8.1.3 make recommendations to strengthen **PAIA**, and
 - 8.1.4 report annually to Parliament.
- 8.2 Section 77C (1) and (2) of **PAIA** makes provision for the following powers, duties and functions of the Regulator, to -
 - 8.2.1 investigate a complaint made to the Regulator in the prescribed manner;
 - 8.2.2 refer the complaint to the Enforcement Committee established in terms of section 50 of the **POPIA**; or
 - 8.2.3 decide, in accordance with section 77D, to take no action on the complaint or, as the case may be, require no further action in respect of the complaint; and
 - 8.2.4 act, where appropriate, as conciliator in relation to such complaint in the prescribed manner.
- 8.3 The Regulator may, in terms of section 77H(1) of **PAIA**, and on its own initiative, or at the request by or on behalf of information officer or head of a private body or any other person conduct as an assessment whether a public or private body generally complies with the provisions of **PAIA**, insofar as its policies and implementation procedures are concerned.
- 8.4 The Regulator is empowered, in term of section 77F of **PAIA**, to use its best endeavours to secure a settlement of a complaint, if it appears from the complaint, or any written response made in relation thereto that it may be possible to settle the complaint. This means that the Regulator can only try to assist parties to settle their disputes, if there is a complaint lodged with the Regulator, unless it has decided, on its own initiative, to conduct an assessment, as stipulated in paragraph 8.3 above.

9. MAKING A REQUEST FOR A RECORD

Please refer to the step-by step process chart flow in paragraph 27 below, on how to request access to the records.

9.1 Getting started: **PAIA Manuals**

- 9.1.1 While this Guide has been published to assist the public from all walks of life to uphold their constitutional right to access to information, there are other sources of information that can also assist a person in making a request to access to records. **PAIA** requires that all public bodies, and private bodies, compile and make available a **PAIA** manual⁷.
- 9.1.2 Before any person takes steps to access the information or records of a particular body, the **PAIA** Manual is the first tool to read.
- 9.1.3 At its most basic, the **PAIA** manual is useful for a person to:
 - 9.1.3.1 check the nature of the records which may already be available without the need for submitting a formal **PAIA** request;
 - 9.1.3.2 have an understanding of how to make a request for access to information held by a particular body;
 - 9.1.3.3 access all the relevant contact details of the person who will assist the public with the records any person intends accessing;
 - 9.1.3.4 know all the remedies available from the body to which access to the records is being requested, before approaching the Regulator or the Courts;
 - 9.1.3.5 know the description of the services available to members of the public from the body and how to gain access to those services;
 - 9.1.3.6 know if the body will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;
 - 9.1.3.7 know if the body has planned to transfer or process a person's personal information outside the Republic of South Africa; and

⁷ Section 14 and section 51 of PAIA

- 9.1.3.8 know whether the body has appropriate security measures to ensure the confidentiality, integrity and availability of the information which is to be processed.

9.2 Where to find PAIA manuals?

9.2.1 PAIA Manual of public bodies

- 9.2.1.1 All public bodies must make the **PAIA** Manual easily available in at least three official languages⁸.
- 9.2.1.2 At the very least, they are required to make a copy of a **PAIA** Manual freely available, except if a printed hard copy is requested
 - 9.2.1.2.1 on the web site of the public body;
 - 9.2.1.2.2 at the head office of the public body for public inspection during normal business hours;
 - 9.2.1.2.3 if a person wants a hard copy, the public body must make a copy, but it may request payment of a reasonable fee for the provision of a hard copy; and
 - 9.2.1.3.4 to the Regulator upon request.

9.2.2 PAIA Manual of private bodies

- 9.2.2.1 Private bodies are also required to compile a **PAIA** manual⁹, but there is no requirement to compile it in more than one language or in a specific language, although it is recommended that the **PAIA** Manuals of private bodies should be at least in English. If a specific body is providing services to majority of people without formal education, the Regulator recommends that the manual of that body may also be in any other official language.
- 9.2.2.2 At the very least, the private bodies are required to make a copy of a **PAIA** Manual freely available¹⁰, except if a printed hard copy is requested -
 - 9.2.2.2.1 on the web site of the private body;
 - 9.2.2.2.2 at the principal place of business of the private body for public inspection during normal business hours;

⁸ Section 14(1) of PAIA

⁹ in terms of section 51 of PAIA

¹⁰ Section 51(3) of PAIA

9.2.2.2.3 if a person wants a hard copy, the private body must make a copy, but it may request the payment of a reasonable fee for the provision of the hard copy; and

9.2.2.2.4 to the Regulator upon request.

9.2.3 The Minister of Justice and Correctional Services has powers to exempt¹¹ certain private bodies or category of private bodies from the obligation to compile a manual. Currently, and until 31 December 2021, the Minister has exempted¹² all private bodies, except any company which -

- (a) (is not a private company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008); and
- (b) is a private company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008) which operates within any of the sectors mentioned in column one of the schedule to this Notice and -
 - (i) has 50 or more employees in their employment; or
 - (ii) has a total annual turnover that is equal to or more than the applicable amount mentioned in column 2 of below table,

from compiling the manual contemplated in section 51(1) of the first mentioned Act for a period of six (6) month from **1 July 2021 to 31 December 2021**: -

Sector	Annual Turnover
Agriculture	R 6 million
Mining and Quarrying	R 22.5 million
Manufacturing	R 30 million
Electricity, Gas and Water	R 30 million
Construction	R 15 million
Retail and Motor Trade and Repair Services	R 45 million
Wholesale Trade, Commercial Agents and Allied Services	R 75 million
Catering, Accommodation and other Trade	R 15 million
Transport, Storage and Communications	R 30 million
Finance and Business Services	R 30 million
Community, Special and Personal Services	R 15 million

¹¹ Section 51(4) of PAIA

¹² Government Gazette no: 39504, 11 December 2015

9.2.4 Due to the significance of the legislative requirement for compiling the **PAIA** Manual, especially the amendment¹³ of section 51 of **PAIA** (which come into operation on 30 June 2021), in terms of which the scope of the information that the manual must cover has been widened to include matters relating **POPIA**, private bodies will no longer be exempted from the obligation to compile **PAIA** manual. Therefore, from, 1st January 2022, every private and public body will be required to have their **PAIA** Manual available, as prescribed in paragraph 9.2.2.2 above.

9.2.5 The exemption of private companies from the obligation to compile **PAIA** manual does not exempt those private companies from compliance with **PAIA**. This means that any person can still submit a request for access to information to exempted private body. The exemption just means that those private companies don't have to compile a **PAIA** manual.

9.2.6 Remember too, that not all private bodies are companies, as the definition of private body includes natural person, sole proprietor and partnership. However, it may still be worthwhile checking their website, as some Companies create a **PAIA** manual regardless of the number of their employees or their annual turnover.

9.3 Voluntary disclosure and automatic availability of certain records

9.3.1 Automatically available records are those that a public or private body will provide without the need for a requester to submit a **PAIA** request (in other words, a person can just request it without completing the **PAIA** Form 2).

9.3.2 The Information Officer of a public body is required, in terms of section 15(1) of **PAIA**, to make available a list or categories of records that are automatically available, as prescribed in paragraph 9.3.4 below.

9.3.3 Automatically available records of a private body may also be made available, in terms of section 52(1) of **PAIA**, but on a voluntary basis in accordance with paragraph 9.3.4 below.

9.3.4 A description of the categories of automatically available records must be made available -

- (a) to the Information Regulator;
- (b) on the website of a body; and
- (c) for inspection, at the offices of a body concerned during normal office hours.

¹³ Section 110 of POPIA

- 9.3.5 Please note that the Regulator will upload the description of automatically available records of a public body on its website.
- 9.3.6 This list includes records that might be required to be made available by other laws, and any other records that a body chooses to include. In order to avoid the formality of complying with the **PAIA** request process, a requester is advised to check the **PAIA** Manual of the public or private body concerned. Should a person wish to access records that fall within the body's list of automatically available records, that person may merely request access to them without needing to complete **PAIA** Form 2.
- 9.3.7 Political Party Funding Act 6 of 2018 introduces some changes through **PAIA**, in terms of which the heads of political parties are required to record and preserve records of private donations, which will need to be made public without a person having to file a **PAIA** request.

10. CONTACT DETAILS OF INFORMATION OFFICERS

- 10.1 Although the contact details of the Information Officers of every public body are required to be published in every telephone directory, in terms of section 16 of **PAIA**, the Regulator has specific contact details of all Information Officers (including Deputy Information Officers, designated in terms of section 17 and 56 of **PAIA** and **POPIA** respectively) registered with it in terms of section 55(2) of **POPIA**.
- 10.2 Whilst getting the correct contact details may often be a very challenging part of making a **PAIA** request, as roles change frequently in the public sector and **PAIA** manual may not necessarily be up-to-date, the first place to find contact details should be the body's **PAIA** Manual. However, if a requester cannot find the manual, calling the switchboard of the body to ask for the relevant details may also assist.
- 10.3 For Municipalities, the South African Local Government Association (**SALGA**) places the contact details for all Municipalities at this link:
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Government communication also provides national and provincial contacts as well as the contact details of State-Owned Enterprises under this link:
<https://www.gov.za/about-government/contact-directory>. Always remember that the definition of the Information Officer helps to identify whose contact details are needed to identify the Information Officer.

11. PROCESS FOR MAKING A REQUEST FOR INFORMATION

11.1 The forms of request

11.1.1 A request for access to information can be made to both public and private bodies.

11.1.2 **PAIA** requires that if you want to make such a request, you have to submit the request on the required form (these forms are prescribed by Regulations). There are two forms that can be used in pursuing the right to access to information

Form 2	Form 4
This form can only be used if you want to request access to the records of a public or private body.	This form can only be used if you want to submit an internal appeal against the decisions of the Information Officers or that of the Deputy Information Officers of a National, Provincial or Local Sphere of Government to which an internal appeal is applicable.

11.1.3 These forms can be obtained on the Regulator's website at <https://www.justice.gov.za/inforeg/>

11.2 Deciding whether a request relates to information held by a private or public body

11.2.1 A public body performs a public function, such as providing electricity or water to the public. So, a public body is not just a National, Provincial or Local Government Department– it would include state-owned enterprises or Organs of State such as the Regulator, **Eskom**, or **PRASA**, however, a distinction must be made regarding a public body for purpose of internal appeal, which only refers to National, Provincial or Local Government.

11.2.2 A private body performs a private function. Such a body (which can be a person) carries on a trade, business or profession. It is very important to note that when submitting a **PAIA** request to a private body a person must state which right he is protecting or exercising by asking for this information. With regard to any information that is held by another person, Streicher JA summed up the position as follows, in **Cape Metropolitan Council v Metro Inspection Services (Western Cape) CC and Others**¹⁴,

¹⁴ 2001 (3) SA 1013 (SCA) para 28 at 1026F–G

“Information can only be required for the exercise or protection of a right if it will be of assistance in the exercise or protection of the right. It follows that, in order to make out a case for access to information in terms of section 32, an applicant has to state what the right is that he wishes to exercise or protect, what the information is which is required and how that information would assist him in exercising or protecting that right”.

11.2.3 Sometimes the question of whether a record is a public or private record can be complicated and the public are advised to seek legal advice. For example, if a public body appoints a private body to render certain services on its behalf, such as installation of water metres in certain communities, access to the numbers of installed metres, even if such information is held by such private body, will be treated as information of a public body.

11.3 How does a person explain the right he is hoping to exercise or protect?

11.3.1 When explaining which right one is hoping to exercise when making a request to a private body, one cannot refer to the right of access to information. One has to explain how the record one is asking for is reasonably required for one to protect, or exercise, another right. This could include rights that are not just constitutional rights.

11.3.2 One may for example require the master plans from a company that has the potential to impact the pollution levels in a community, in order to help protect one's right to the environment through monitoring its activities. Or one may require records, which will help one determine if one has the right to file a civil claim against an entity. One therefore needs to:

11.3.2.1 Specifically identify the right one hopes to protect or exercise, and then

11.3.2.2 Explain clearly why the *record* one is asking for is reasonably required to help one with that right.

11.3.3 In contrast, when submitting a **PAIA** request to a public body, one does not have to have a reason for requesting the information.

12. WHO CAN MAKE A PAIA REQUEST?

12.1 Any person, whether South African or non-South African, is allowed to make a request under **PAIA**. The requester can be a natural person or juristic person.

12.2 A public body is considered a juristic person and may make a request for access to records held by private bodies, but only if the public body is -

12.2.1 acting in the interests of the public, and

12.2.2 if the records are required to fulfil or protect any rights other than those of the public body.

12.3 Under **PAIA** a requester cannot request access to a record, of the public body, containing personal information about the requester from the public body¹⁵, however the requester or data subject can, in terms of section 23(1)(b) of **POPIA**, request from a responsible party the record or a description of the personal information about the data subject held by the responsible party. This means that any person can now request access to their personal information held by the public or private body upon production of adequate proof of identity. The personal information that a requester may request from the responsible body may include information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.

12.4 In terms of section 50(1) of **POPIA**, any person can request access to a record, of a private body, containing personal information about the requester or the person on whose behalf the request is made.

13. TO WHOM CAN A REQUEST BE MADE TO?

13.1 The Information Officer of a public body is required to designate a Deputy Information Officer(s), who must ensure that access to the records of the public body is as reasonably accessible as possible. Although this was not a requirement with regard to the private body under **PAIA**, a private body may designate the above-mentioned Deputy Information Officer, in terms of section 56 of **POPIA**.

13.2 The request for access to information, although it may be directed to the Information Officer, can be submitted to the Deputy Information Officer. Particulars of Deputy Information Officer(s) can be obtained in the **PAIA** manual of that particular body or from the Regulator.

14. COMPLETING THE FORM

14.1 Form 2 - request for access to a record of a public or private body:

14.1.1 In order to complete the **PAIA** form, a person needs to provide sufficient detail to allow the Information Officer or Deputy Information Officer to identify the records the requester seeks.

¹⁵ Section 11(2) of PAIA

14.1.2 **PAIA** Regulations specify the form to be used, which must be sent to the Information Officer, or Deputy Information Officer of the body.

14.1.3 Requesters who are unable to read or write can make verbal requests to the Information Officer or Deputy Information Officer of a public body, who is then responsible for completing the form 2 on behalf of the requester. The current form will require you to complete the following sections:

Information Required	Description
Particulars of public private body	This section should contain the relevant email and fax number of the Information Officer and/or Deputy Information Officer.
Particulars of person requesting access to records	This should contain enough information about the requester to make the requester reasonably easy to identify, including the contact details of the requester: postal address, email address, fax and/or telephone number in South Africa. It also asks for your identity number to authenticate your identity. If you are requesting the information on behalf of someone else, proof of the capacity in which you are making the request must be provided (as the 'authorised person').
Particulars of record requested	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. (If the provided space is inadequate, please continue on a separate page and attach it to the form. All additional pages must be signed.
Type of record	This should contain enough information about the record to make it reasonably easy to identify. If the information required cannot fit in the space provided in the form, additional typed or handwritten page may be used to give more detail of the request, as long as each additional page is signed

Information Required	Description
	and attached to the request form. You might, for example, include an extract from a report or news story that references the record you are looking for. It allows you to include a reference number for the record, if it is applicable.
Fees	The body, to which a requester intends submitting a request for access to a record, including record containing personal information about his or herself, may request that you pay request fee (access fee) or deposit fee, but that amount must not be excessive, as the fees must be for the reasonable time required to search for and prepare a record. The Minister may by notice in the Gazette exempt the payment of fees as listed on paragraph 51.1 below. A space is provided for the requester to indicate why he believes he or she should be exempted from paying any fees. The reason may include, for example, that he or she is unemployed.
Form of access to record	This section allows you to note with an "X" your preferences for the form of access to the record may be provided in a printed copy of record and/or flash drive and/or compact disc drive.
Manner of access	Under this section you are required to note your preference in relation to which language the record should be in (this may not be possible in relation to all records, but you should still indicate your preference). The manner of access of the record may contribute to a refusal of access due to higher fees. For example, if a requester wants document in your preferred language,

Information Required	Description
	fees for changing the documents to your preferred language may become payable. However, if the record is not available in the language you prefer, access may be granted in the language in which the record is available. The manner of access to record may include personal inspection of record, record sent by email, or fax or courier or postal.
Notice of decision regarding request for access	A space is provided for the requester to describe the manner in which he wishes to be informed about the decision to grant or deny the request. The requester can specify for instance that he would prefer to be contacted by email or by telephone or the response can be posted or couriered to him.
Particulars of right to be exercised or protected	When requesting information from a private body a requester is required to describe the “particulars of right to be exercised or protected”. Here he must state the right he is relying on (such as his right to a healthy environment) and how the record he is requesting will help you either exercise, or protect, that right. He must show a connection between the record he wants, and the exercise or protection of the right. Unfortunately, unlike the request for access to record of a public body, he cannot access a record of the private body unless he specifies the right(s) he intends protecting or exercising should access for information be granted. This can include the fact that after he gains access to records, he will then exercise his right to equal protection and benefit of the law¹⁶ by suing that body for damages that he may have suffered.

¹⁶ Section 9(1) of the constitution of the Republic of South Africa, Act 108 of 1996

- 14.1.4 If for any reasons his request does not comply with the requirements listed above, the Information Officer may not just refuse his request, unless he notified the requester that he intends to refuse the request and the reasons are provided. The Information Officer must also notify that he will assist the requester or give him an opportunity to correct the error.

15. THE FEES INVOLVED

- 15.1 Generally, fees need to be paid both for making a request, but also to cover the cost of providing access to records in terms of a request. There are, however, some exceptions. If the requester is granted access to the records he or she requested and he or she is not exempted from paying any fees, as indicated in paragraph 15.2 below, the Information Officer or Deputy Information Officer of a public or private body can charge the prescribed fees relating to the following categories -

NB: The fee structure in respect of fees payable to the Public and Private Bodies can be accessed on the Regulator's website.

Item	Description
1	The request fee payable by every requester
2	Photocopy of A4 size page
3	Printed copy of A4 size page
4	For a copy in a computer-readable form on: (i) Flash drive (to be provided by requestor) (ii) Compact disc • If provided by requestor • If provided to the requestor
5	For a transcription of visual images per A4 size page
6	Copy of visual images
7	Transcription of an audio record, per A4 size page
8	Copy of an audio record on: (i) Flash drive (to be provided by requestor) (ii) Compact disc • If provided by requestor • If provided to the requestor
9	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of the prescribed maximum amount
10	Deposit: If search exceeds 6 hours
11	Postage, e-mail or any other electronic transfer

15.2 The requester does not need to pay an access fee¹⁷ to a public body if:-

15.2.1 He is a single person whose annual income, after permissible deductions, such as **PAYE** and **UIF**, is less than **R14 712.00** a year, or

15.2.2 He is married and the joint income with his partner, after permissible deductions, such as **PAYE** and **UIF**, is less than **R27 192.00** per year.

15.3 Please note that the public or private body can request, in Form 4 to the Regulations, a deposit from the requester, but only if they believe that the information or records requested will take more than six (6) hours to search, but the deposit amount cannot be more than one-third of the prescribed fee.

16. WILL THE INFORMATION OFFICER HELP THE REQUESTER MAKE A PAIA REQUEST?

16.1 The role of the Information Officers and/or Deputy Information Officers of both public and private bodies is to, in so far as it relates to the processing of requests for access to records:

16.1.1 receive the **PAIA** or **POPIA** request;

16.1.2 coordinate the processing of the request within the body;

16.1.3 make a decision as to whether to grant or refuse access to the records being requested;

16.1.4 liaise with the requester (e.g. they may need to ask the requester for more details or they may need to request an extension of time to deal with the request, etc.);

16.1.5 Advise the requester of the outcome of their **PAIA** request, which advice must be given as soon as is reasonably possible but within 30 days after receiving the request. The initial period of 30 days may be extended once for a further period of not more than 30 days, if for example, the requester has agreed to the extension or the request requires a search for records that cannot reasonably be completed within the original period;

16.1.6 provide the requester with reasons for the decision to refuse access. It is very important that the reasons given for a refusal are clear and detailed and must include reference to the specific sections of **PAIA** (see paragraph 19.4 below, regarding the grounds for refusal of access to records¹⁸);

¹⁷ as per Government Notice R991 of 14 October 2005

¹⁸ Section 33 to 46 of PAIA

- 16.1.7 inform relevant third parties through the third-party notification process, in terms of section 47 of **PAIA**; and
- 16.1.8 if access to the records is granted, provide the requester with a copy of the record.
- 16.2 When notifying the requester about the decision, also outline the forms of recourse available and the relevant time-lines (the recourse available is different for public and private bodies).
- 16.3 The additional role and responsibilities of the Information Officers and/or Deputy Information Officers are those detailed in the Guidance Note on Information Officers and Deputy Information Officers which Guidance Note is available at <https://www.justice.gov.za/infoereg/docs.html>
- 16.4 Because the role of the Information Officers and/or Deputy Information Officers is to facilitate the request for access to information, this also means they have a variety of duties to those making a request.
- 16.5 The Information Officers and/or Deputy Information Officers must provide the assistance for free.
- 16.6 The Information Officers and/or Deputy Information Officers of a public body have the following special tasks:

Duties of Information Officers	Description
Assist with completing the form	The Information Officer must provide reasonable assistance to the requester in completing their PAIA form, and may not refuse to accept a form that is not properly completed unless they have either given that help, or offered that help and the assistance or help has been refused.
Provide relevant information	If it is reasonably possible, the Information Officer must provide the requester with any other information that may be relevant, even if not specifically requested.
Transfer the request	This is a very important duty. When a PAIA request is made to the wrong public body, the Information Officer must transfer the

Duties of Information Officers	Description
	request to the correct public body within 14 days of receiving the request and must inform the requester in writing of having done so. Once transferred, the correct Information Officer must then respond with a decision within 30 days .
Deferral of release	The Information Officer may decide to defer the release of a record to a requester if that record will be published within 90 days or if the record is required by law to be published but is yet to be.

- 16.7 With both public and private bodies, the Information Officer must, if they are unable to find the particular records requested or believe that the records do not exist, submit a detailed affidavit or affirmation¹⁹ to the requester giving notice that the records in question do not exist or cannot be found, but also outline the steps they took to locate them.

17. ASSISTANCE AVAILABLE FROM THE INFORMATION REGULATOR IN TERMS OF PAIA AND POPIA

- 17.1 The Information Officer of a public body has an obligation to render such reasonable assistance²⁰, free of charge, as is necessary to enable that requester or data subject to comply with the manner of access as contemplated in sections 18 of the **PAIA** and section 23 of **POPIA**.
- 17.2 However, should the Information Officer fail to comply with his/her duty, referred in paragraph 17.1 above, a requester or a data subject can may lodge a complaint with the Regulator and the Regulator may, upon investigation, issue an Enforcement Notice directing the Information Officer to provide the reasonable assistance.
- 17.3 The Regulator may, if reasonably possible, on request, assist any person wishing to exercise any right contemplated in **PAIA** and **POPIA**²¹, and this includes providing reasonable assistance, free of charge, as is necessary to enable that requester or data subject to comply with the manner of access as contemplated in sections 18 and 53 of the **PAIA** and section 23 of **POPIA**.
- 17.4 The above includes providing guidance on how to complete a request for access form or completing a form on behalf of an illiterate or blind person.

¹⁹ Section 23(1) and 51(1) of PAIA

²⁰ Section 19(1) of PAIA

²¹ Section 83(3)(c) of PAIA

18. CAN THE INFORMATION OFFICER EXTEND THE TIMELINES INVOLVED?

- 18.1 An outline of the process and the key time-lines involved are contained in the diagram of the **PAIA** request process, in paragraph 27 below. Having specific time-lines is an important part of **PAIA**, as it fosters the effective management of requests for access to records.
- 18.2 As a reminder, once you have submitted your request correctly the Information Officer or Deputy Information Officer, to whom the request is made or transferred, must respond to you as soon as is reasonably possible but in any event **within 30 days**²². However, the Information Officer of a public or private body can request a single **30 day extension**²³, but only if:
- 18.2.1 the request is for a large number of records or requires that a large number of records are searched and, without an extension, this search would interfere with the normal activities of the body concerned;
 - 18.2.2 the request requires a search through records in an office of that body not situated in the same city or town and could thus not be completed **within the 30 days**; and/or
 - 18.2.3 it requires a level of consultation in order to act on the request, which cannot reasonably be completed **within just 30 days**.
- 18.3 The Information Officer must notify the requester of his or her intention to extend the initial time period, and indicate the period of extension, the reason for the extension, and notify the requester of his or her or its right to -
- 18.3.1 Appeal to the relevant authority;
 - 18.3.2 complain to the Regulator; or
 - 18.2.3 launch proceedings in court against the extension as the case may be.
- 18.4 The Information Officer must also inform the requester of the process for each of the above-mentioned rights in the notice²⁴.

19. RESPONSES TO A REQUEST FOR INFORMATION

- 19.1 **PAIA** has provided the public with the right to request access to records from any public or private body. It is often described as the law that keeps citizens in the know about their government. Public bodies are required to disclose any information requested under the **PAIA** unless it falls under one of **twelve (12)**

²² Section 25(1) of PAIA

²³ Section 26(1) of PAIA

²⁴ Section 26(3) of PAIA - the extension notice must state that the requester may lodge an internal appeal, complaint to the Information Regulator or an application with a court, as the case may be, against the extension, and the procedure (including the period) for lodging the internal appeal, complaint to the Information Regulator or application, as the case may be.

exemptions or reasons why access to records of a public body may or must not be granted²⁵ and seven (7) exemptions or reasons why access to records of private body may or must not be granted²⁶. The nineteen (19) exemptions provided for in **PAIA** are intended to protect interests such as personal privacy, national security, and law enforcement.

19.2 The guiding principle underlying the administration of **PAIA** is the presumption of openness. This means that any reason for limiting this openness must be justifiable. Public bodies should also consider whether partial disclosure of information is possible whenever they determine that full disclosure is not possible and they must sever or redact the information that cannot be disclosed and disclose the rest.

19.3 Types of responses to requests

19.3.1 When a request for access to a record is made, the Information Officer or Deputy Information Officer must, if a request for access to a record is granted or refused, inform the requester of -

- (a) his or her decision; and
- (b) the fees payable, if any,

on a form that corresponds substantially with **Form 3** of Annexure A to the Regulations:

19.3.2 However, **PAIA** provides a list of reasons or grounds (exemptions) (see paragraphs 19.4 and 19.6 below) why the request may or must be refused. This is important, as the request can only be refused on the basis of one of these listed grounds for refusal of access to records.

19.3.3 Despite the above-mentioned reasons for refusal of access to records, the Information Officer of a public body must grant a request for access to a record of the body if the public interest in the disclosure of the record clearly outweighs the harm contemplated in the listed reasons for refusal²⁷. This means the requester can rely on public interest whenever any of the grounds of refusal of access to records is being invoked.

19.3.4 In short, the reasons behind why information cannot be disclosed relate to whether the disclosure of the information would cause more harm than non-disclosure would. There are two different types of listed grounds for refusal for access to records of a body:

²⁵ Chapter 4 of PAIA- grounds for refusal of access to records (section 34-45 of PAIA)

²⁶ Chapter 4 of PAIA- grounds for refusal of access to records (section 63-69 of PAIA)

²⁷ Section 46 of PAIA

19.4 Mandatory grounds of refusal (grounds of exemption)

19.4.1 With mandatory grounds, the Information Officer or Deputy Information Officer must refuse a request because they apply to the record.

19.4.2 There are more mandatory grounds than discretionary grounds. The following are the mandatory grounds of refusal, and the Information Officer or Deputy Information Officer must refuse a request because they apply to the record –

19.4.2.1 **Mandatory protection of privacy of third party who is a natural person;**

The Information Officer of a public or private body must not allow a requester access to the personal information of another person if it amounts to ‘an unreasonable disclosure’. The sections themselves indicate a few reasons when this does not apply, like when records are already in the public knowledge, or where a person has given consent. The consent issue is particularly important as it connects to another part of the process the requester should be aware of, which relates to third party notifications, in terms of chapter 5 of **PAIA**.

19.4.2.2 **Mandatory protection of certain records of the South African Revenue Service;**

The Information Officer of **SARS** must not allow a requester access to records obtained, or held, by **SARS** for its revenue collection purposes. However, records obtained or held by **SARS** may not be refused if a request is done by personal requester or the person on whose behalf the request is made.

19.4.2.3 **Mandatory protection of commercial information of third party;**

The Information Officer of a body must not allow a requester access to the commercial information of another person (in other words, who is not the requester or requestee. This would include information like trade secrets, or that might threaten that third party’s commercial interests. For example, **KFC** use certain recipes, including some ingredients manufactured by a third party, which are the trade secrets of that third party and its disclosure might threaten the commercial interests of that third party.

19.4.2.4 Mandatory protection of certain confidential information, and protection of certain other confidential information, of a third party;

The Information Officers of both a public and private body must not allow a requester access to a record if its release would amount to a breach of a duty of confidence owed to a third party in terms of an agreement or contract.

19.4.2.5 Mandatory protection of safety of individuals, and protection of property;

The Information Officer of both a public or private body must not allow a requester access to a record if its release could reasonably be expected to compromise the safety of an individual. In the same sections, it also states that the Information Officer of a body may refuse access if it would be likely to impair the security of a building or property.

19.4.2.6 Mandatory protection of police dockets in bail proceedings, and protection of law enforcement and legal proceedings;

The Information Officer of a public body must not allow a requester access to records like bail proceeding records that are already protected by section 60 of the Criminal Procedure Act. In the same section, it also states that an Information Officer of a public body may refuse access to records of law enforcement that reveal its methods, techniques, procedures for prevention of crimes, or prosecution of crimes, as well as certain other records relevant to legal proceedings that are happening.

19.4.2.7 Mandatory protection of records privileged from production in legal proceedings;

The Information Officer of a private body must not allow a requester access to a record if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.

19.4.2.8 Mandatory protection of research information of third party, and protection of research information of public or private body.

The Information Officer of a body must not allow a requester access to a record if the record relates to research that is, or will be, undertaken by the body in question and its release would be likely to expose the researcher, the third party or the matter under research to a serious disadvantage.

19.4.3 Please note that the above mandatory grounds for refusal of access to records are somewhat the same for public and private bodies, except for the mandatory protection of certain records of South African Revenue Service, of police dockets in bail proceedings, of law enforcement and of legal proceedings, which are only applicable to public bodies.

19.4.4 If only part of the record is linked to an exemption ground, the Information Officer or Deputy Information Officer of both a public or private body is under an obligation to consider whether partial disclosure of information is possible whenever they determine that full disclosure is not possible and they should take reasonable steps to sever or redact that part that cannot be released to the requester and grant access to the rest of the record.

19.5 Deemed refusal of request²⁸

19.5.1 A failure to respond properly to a request within the correct timeframe is considered to be a 'deemed refusal'. This is important, because **PAIA** allows the requester to challenge a decision when no decision has been made and the request has been ignored. The requester would merely state in the internal appeal that no response was received.

19.5.2 Request for access to records is deemed to be a refusal after the expiry of 30 days or any extended period and the public or private body fails to respond.

19.6 Discretionary grounds of refusal

19.6.1 With discretionary grounds, an Information Officer or Deputy Information Officer may consider whether or not to refuse a request because the grounds apply to the record requested. Because it is a discretion, the Information Officer must apply his/her mind objectively when considering the different grounds, which are:

19.6.1.1 **South Africa's defence, security and international relations:**

The Information Officer may refuse access if the release of the information could reasonably be expected to threaten the defence or security of the country. This could also apply where the release of the information might harm South Africa's relations with another country, such as revealing records supplied in confidence.

19.6.1.2 **Economic, financial and commercial interests:**

The Information Officer may refuse access if its release will be harmful to the economic and financial status of the Republic;

²⁸ Section 27 and 58 of PAIA

19.6.1.3 **Operations of public bodies:** The Information Officer of a public body may refuse access if the release of the information could reasonably hamper operations, for example if it is trying to formulate policy, or deliberate on an issue;

19.6.1.4 **Manifestly frivolous or vexatious requests:** The Information Officers may refuse a request for information if they are of the opinion that processing requests will be unreasonably time consuming and lead to a waste of resources. In addition, they may refuse access to a record if the request is seen to be made by a requester to unnecessarily annoy or provoke.

20. MANDATORY DISCLOSURE OF RECORDS IN THE PUBLIC INTEREST

20.1 Even if a discretionary or mandatory ground for refusal exists in relation to a request for access to records of public or private bodies, there is always the possibility that the public interest in the disclosure of the record is more important than the harm created by the release of the record.

20.2 Where the importance of the public interest exists as stated above and the disclosure of the record would reveal evidence of a substantial contravention of, or failure to comply with, the law; or an imminent and serious public safety or environmental risk, then the Information Officer of a body must grant a request for access to a record despite the existence of the exemption grounds listed above.

21. THIRD PARTY NOTIFICATION PROCESS²⁹

21.1 An Information Officer or Deputy Information Officer of a body is required, in terms of sections 47 and 71 of **PAIA**, to take all reasonable steps to inform a third party about a request for his or records that might be a record that contains either personal information,

21.1.1 a SARS record;

21.1.2 trade secrets;

21.1.3 Information the release of which could constitute grounds for an action for breach of a duty of confidence; or research information that could expose someone or the subject matter to serious damage.

21.2 The notice to the third party whose records or Information are subject of request should invite the third party to -

²⁹ Section 47 and 71 of PAIA

- 21.2.1 make written or oral representations to the Information Officer why the request for access should be refused; or
- 21.2.2 give written consent for the disclosure of the record to the requester.
- 21.3 Importantly for the requester, **PAIA** says that the written notices to the third party must be sent to the third party within 21 days of the request being received, and that the Information Officer or Deputy Information Officer must inform the requester that a notice has been sent to the third party.
- 21.4 Once that notification has been sent, the Information Officer or Deputy Information Officer must then make a final decision on whether or not to release the records **within 30 days** of that notice being sent.
- 21.5 The third party must be notified about the decision taken and adequate reasons for granting the request must also be provided. The third party must also be informed about the right and the procedure to challenge the decision as indicated in paragraph 22 below.

22. LEGAL REMEDIES AVAILABLE AGAINST A DECISIONS OR FAILURE TO TAKE A DECISION BY THE INFORMATION OFFICER OR DEPUTY INFORMATION OFFICER

- 22.1 Action to take once a decision is made on a request
 - 22.1.1 A requester can make a follow-up action in writing, on the pending decision of an Information Officer or Deputy Information Officer. It is encouraged that all correspondence between a requester and the Information Officer or Deputy Information Officer must be in writing for future reference purposes.
 - 22.1.2 There are different processes for public and private bodies, especially regarding internal appeals. For instance, with regard to a request for access to a record of a public body, the requester must first submit an internal appeal before approaching the Regulator or Court. However, there is no internal appeal against a decision (whether granting or refusal to grant access to records) or deemed refusal of access to records of a private body.
 - 22.1.3 This section will explain the legal remedies available to requesters who wish to challenge such decisions, which include internal appeals, lodging a complaint to the Regulator and applications to Court. See also diagram of **PAIA** request process flow, in paragraph 27 below.

22.1.4 A requester may, amongst others, challenge the following decision of a private and/or public body -

22.1.4.1 the tender or payment of the request fee;

22.1.4.2 the tender or payment of a deposit;

22.1.4.3 the access fee to be paid is too excessive;

22.1.4.4 the form of access granted;

22.1.4.5 the refusal of the request;

22.1.4.6 the procedure (including the period) for lodging the internal appeal;

22.1.4.7 inappropriate time extension taken to respond to a request for access;

22.1.4.8 failure to disclose records;

22.1.4.9 the granting of a request for access to a record;

22.1.4.10 refusal to grant request to waive the fees;

22.2 Internal remedies

22.2.1 How does a requester appeal internally against a public body's decision?

22.2.1.1 An internal appeal can only be lodged, in terms of section 74 of **PAIA**, with the relevant authority of the national or provincial sphere of government or any municipality in the local sphere of government as the case may be³⁰.

22.2.1.2 So for example, the City of Johannesburg is an example of a local sphere of government against which an internal appeal can be submitted. The Road Accident Fund or the Regulator is an example of a public body which is not part of the national, provincial or local sphere of government as it is set up by legislation, and therefore an internal appeal may not be lodged against it.

³⁰ Section 74(1) of PAIA

22.2.1.3 When a requester or a third party is unhappy with a decision made by the Information Officer or Deputy Information Officer of a national, provincial or local sphere of government, the requester or a third party has the right to file an internal appeal, in terms of section 74(1) or (2) of **PAIA**. The process for lodging an appeal is prescribed in the **PAIA** manual of that particular body and the manner for lodging an internal appeal is also detailed herein below.

22.2.1.4 If the response from the national, provincial or local sphere of government is a deemed refusal, in another words, it has failed to respond to a request within 30 days or any extended period, the requester may file an internal appeal, as per the processes outlined herein, before the requester may approach the Regulator or a Court.

22.3 **Preservation of records until final decision on request has been finally determined**

22.3.1 The Information Officer of a National, Provincial or Local sphere of government to which an internal appeal is applicable is required, in terms of section 21 of **PAIA**, to take appropriate steps that are reasonably necessary to preserve the record and cannot delete or destroy any re-requested record, until such time as all or any proceedings in an internal appeal or a complaint to the Regulator or an application to court, as the case may be, are finally determined.

22.3.2 This means that the information officer cannot delete or destroy any information requested, pending any process prescribed in paragraph 22.3.1. above.

22.4 **To whom should the internal appeal be directed to?**

22.4.1 Although the appeal will be considered by the relevant authority, an internal appeal must be delivered or sent to the Information Officer of the National, Provincial or Local Sphere of Government, as the case may be, at his address, fax number or electronic mail address³¹, the contact details of which can be found in the **PAIA** manual or as may be obtained from the Regulator.

22.4.2 The Information Officer of the national, provincial or local sphere of government, as the case may be, has a specific obligation, in terms of section 75(4) of **PAIA**, to submit the appeal to the

³¹ Section 75(1)(b) of PAIA

appeal authority, together with his reasons for the decision under appeal. The submission of the appeal to the relevant authority must be done within 10 working days after receipt of the appeal.

22.5 Who is the relevant authority?

22.5.1 The relevant authority, herein referred to as “appeal authority” is generally the political head of the body concerned (although this function can be officially delegated) and specifically refers to the following person.

Public body ("Government")	Relevant Authority ("Appeal Authority")
Office of the Presidency	The person designated in writing by the President, if any, otherwise the President is the appeal authority.
National Department	Minister responsible for that department or the person designated in writing by that Minister.
Office of a Premier	The person designated in writing by the Premier.
Provincial Department	Member of the Executive Council (MEC) responsible for that Provincial Department or the person designated in writing by the MEC;
Municipality	The Mayor, the Speaker or any other person designated in writing by the Municipal Council of that municipality;

22.5.2 Any other case, where it is not the office of the premier: the member of the executive who is responsible for that public body or the person designated in writing by that member.

22.5.3 If the appeal authority approves the Information Officers' decision, then the internal appeal is denied and the original

22.5.4 decision of the Information Officer stands. However, should the appeal authority disagree with the Information Officer's decision, then the appeal is granted and the original decision is overturned.

22.6 Who can lodge an internal appeal?

22.6.1 Any requester whose **PAIA** request for access to the records of National, Provincial or Local sphere of Government, as the case may be, has been refused, and believes that one of the appeal grounds listed in paragraph 22.2.4 above is applicable to their request, has the right to file an internal appeal.

22.6.2 Third parties can also file internal appeals against the decision made by an Information Officer to grant access to a record that concerns them. If the internal appeal involves a third party, the appeal authority who received the internal appeal is required to notify those third parties (so the responsibility shifts from the Information Officer to the appeal authority).

22.7 Period within which to lodge an appeal

22.7.1 An internal appeal must be lodged-

22.7.1.1 within **60 days**³² after the decision was taken;

22.7.1.2 within **30 days**³³ after notice is given to the third party of the decision appealed against

22.7.2 Lodging an internal appeal after the above-mentioned period (late) may not be allowed, unless a valid reason for being late is provided to the appeal authority. An example, such as being hospitalised for more than 60 days may be accepted as valid reasons for being late.

22.7.3 If the appeal authority does not accept the late lodging of an internal appeal, it must provide you with reasons for rejecting the appeal and provide guidance of any additional information, if any, required in order to accept the appeal. The appeal authority must also advise you about the process to lodge a complaint against their decision with the Regulator or a court.

³² Section 75(1)(a)(i) of PAIA

³³ Section 75(1)(a)(ii) of PAIA

22.7.4 As indicated above, your appeal must be submitted by the Information Officer to the appeal authority within 10 working days after receipt of an internal appeal³⁴.

22.8 Notice of appeal by appeal authority to the requester or third party

22.8.1 The appeal authority must, as soon as is reasonably possible but in any event within **30 days** after the receipt of the internal appeal³⁵, notify -

22.8.1.1 the third party to whom or which the record under appeal belongs, or

22.8.1.2 the requester about the internal appeal against the granting of a request for access.

22.8.2 A requester or a third party to whom or which notice is given, may within **21 days** after that notice is given, make written representations to the appeal authority why the request for access should or should not be granted.

22.9 Decision on internal appeal and notice thereof³⁶

22.9.1 The appeal authority must decide the internal appeal as soon as reasonably possible but in any event within 30 days:

22.9.1.1 after the internal appeal is received by the Information Officer of a body;

22.9.1.2 after a third party is informed, as indicated in paragraph 22.8.1 above.

22.9.2 The decision of the appeal authority must be communicated to the appellant, third party and the requester. The decision of the appeal authority must be accompanied by adequate reasons for the decision, including the provision of **PAIA** or **POPIA** relied upon.

22.9.3 If the appeal authority fails to give notice of the decision on an internal appeal to the appellant within 30 days, the appeal is deemed to have been dismissed and the requester can proceed to lodge a complaint to the Regulator or approach the Court for appropriate relief³⁷.

³⁴ Section 75(4) of PAIA

³⁵ Section 76(2)(a) of PAIA

³⁶ Section 77 of PAIA

³⁷ Section 77(7) of PAIA

22.10 Completing the internal appeal - Form 4

- 22.10.1 In order to appeal against any decision by a National, Provincial or Local sphere of Government, the requester must lodge his internal appeal by completing Form 4. Form 4 must be submitted to the Information Officer of the sphere of government concerned, who is then required to forward it to the appeal authority, as stated above.
- 22.10.2 Form 4 is available on the Regulator's website, <https://www.justice.gov.za/infoereg/>, as well as in the website of the sphere of Government concerned.
- 22.10.3 The Information Officer or Deputy Information Officer of the sphere of Government concerned is not under an express obligation to help the requester complete the internal appeal form; however, the requester may still request the Information Officer to assist him in this regard.
- 22.10.4 Below is the step-by-step process to complete the internal appeal form -

Information Required	Description
Particulars of public body	This section should contain the name of the National, Provincial for Local sphere of Government concerned, and the name and surname of the Information Officer.
Particulars of appellant who lodges the internal appeal	This section should be completed by the appellant, whether in representative capacity or not. The full names and surname, identity number and the capacity, in which an internal appeal is lodged on behalf of another person, if relevant, must be provided. If the appeal is being in a personal capacity, such capacity must be recorded. Additional information required includes the contact details of the requester:

Information Required	Description
	postal address, email address, fax and/or telephone number. This information should be the same as in the original request. If the person filling in the form is the representative of the requester, proof of the capacity in which appeal is lodged must be attached to this form.
Particulars of person on whose behalf request is made (If lodged by a third party)	This section only needs to be completed by a person who is requesting information for another person. If the person submitting the internal appeal is not the person who originally requested the information, the particulars of the requester must be provided herein. If the request is in one's personal capacity this section need not be completed.
The decision against which the internal appeal is lodged	The form provides space for the requester to indicate with an "x", which of the listed appeal grounds applies to the appeal.
Grounds for appeal	Under this section, the requester is required to describe in detail why he thinks the appeal grounds apply. He is required to provide reasons(s) why he thinks the decision of the Information Officer is incorrect. He also needs to attach any documents which support the appeal. The list of reasons supplies in support of the appeal can be outlined in greater detail on a separate page, if the space provided in the form is not sufficient. The additional pages submitted should be signed.

Information Required	Description
	There must be sufficient reasons and supporting information to enable the appeal authority makes an informed decision. Therefore, one must also include an outline of everything that has happened in the run-up to the internal appeal. On the separate page, one can refer to specific sections of PAIA as a basis for the appeal.
Notice of decision on appeal	A space is provided for a description of the manner in which the decision must be sent, for example by post, couriered or facsimile or e-mail. Please select the preferred manner of notification.

22.10.5 Whilst there is no prohibition against getting a lawyer to assist at any stage of the request for information, the various **PAIA** processes are meant to be user-friendly removing the need for a lawyer and for legal fees to be incurred.

23. COMPLAINT TO THE INFORMATION REGULATOR

- 23.1 A requester or third party may only submit a complaint to the Regulator after that requester or third party has exhausted the internal appeal procedure against a decision of the Information Officer of a national, provincial or local sphere of government. This means that one can only submit one's complaint, against a particular sphere of government to the Regulator if one is not happy with the decision of the appeal authority. The Regulator will reject the complaint if an appeal process to the relevant sphere of government has not been completed.
- 23.2 However, with regard to a public body (in respect of which an internal appeal is not applicable) and a private body, a requester or third party may submit a complaint to the Regulator, if not satisfied by the decision of the body concerned.
- 23.3 A complaint to the Regulator by a requester or third party must be lodged within 180 days of receipt of the decision from the body.

23.4 A requester may lodge a complaint with the Regulator, if not happy with -

23.4.1 the outcome of an internal appeal to the appeal authority of any sphere of government;

23.4.2 a decision of the appeal authority to disallow the late lodging of an internal appeal;

23.4.3 a decision of the Information Officer of a public body that is not part of any sphere of government to -

23.4.3.1 refuse a request for access; or

23.4.3.2 extend the period to deal with request; or

23.4.3.3 grant access in a particular form.

23.4.4 a decision of the head of a private body to -

23.4.4.1 refuse a request for access; or

23.4.4.2 demand payment of the request fee, or a deposit of the access fee; or

23.4.4.3 extend a period to deal with request; or

23.4.4.4 grant access in a particular form.

23.5 A third party may lodge a complaint with the Regulator, if not happy with -

23.5.1 the outcome of an internal appeal to the appeal authority of the relevant sphere of government;

23.5.2 a decision of the Information Officer of a public body that is not part of any sphere of government to grant a request for access; or

23.5.3 a decision of the head of a private body to grant a request for access to a record of that body,

23.6 How does one complain to Regulator?

- 23.6.1 complaint to the Regulator must be made in writing and a complaint form must be completed, either manually or online. A complaint form, Form 5, can be downloaded from the Regulator's website, <https://www.justice.gov.za/inforeg/>
- 23.6.2 This means that the Regulator will not accept a complaint telephonically; however, the Regulator is required to provide reasonable assistance to any person who wishes to make a complaint and this includes assistance regarding completing a complaint form.
- 23.6.3 If one is challenging the decision of the Information Officer of a private body, one must provide sufficient evidence to prove that the record requested is required for the exercise or protection of any other right(s). Access to the records of a private body can only be granted if one can prove that one intends exercising or protecting any other right(s) with the record requested.

23.7 What happens after receipt of the complaint?

- 23.7.1 Upon receipt of one's complaint, the Regulator must -
 - 23.7.1.1 investigate the complaint and refer its findings to the Enforcement Committee for a decision; or
 - 23.7.1.2 take no action on the complaint due to the fact that -
 - 23.7.1.2.1 The complaint has not been submitted within the period of 180 days and there are no reasonable grounds to condone the late submission of a complaint;
 - 23.7.1.2.2 the complaint is frivolous or vexatious or not made in good faith; or
 - 23.7.1.2.3 having regard to all the circumstances of the case, any further action is unnecessary or inappropriate. For example, the information requested has been made publicly available.
 - 23.7.1.3 Where appropriate conciliate or use its best endeavours to secure such a settlement or assist the parties to settle their dispute(s); and

23.7.1.4 Advise the complainant and the Information Officer, to whom the complaint relates, of the course of action to be undertaken.

23.8 **Regulator's first communication to the complainant and Information Officer regarding the complaint lodged**

23.8.1 If the Regulator decides not to take any further action on the complaint, the Regulator will inform the requester of that decision and the reasons for not taking further action on the complaint.

23.8.2 If the Regulator decides to investigate a complaint, the requester will receive a letter advising him that the Regulator has decided to conduct an investigation.

23.8.3 Upon receipt of a complaint, the Regulator will forward the details of the complaint to the Information Officer of the relevant body, and request him to submit to the Regulator, a written response to the complaint.

23.9 **Investigative powers of the Regulator**

23.9.1 The Regulator has powers, in terms of section 77G(2) of **PAIA**, to -

- 23.9.1.1 use its best endeavours to secure such a settlement;
- 23.9.1.2 summon and enforce the appearance of persons before the Regulator;
- 23.9.1.3 compel them to give oral or written evidence on oath and to produce any records;
- 23.9.1.4 receive and accept any evidence and other information, whether on oath, by affidavit;
- 23.9.1.5 enter and search any premises occupied by a responsible party;
- 23.9.1.6 conduct a private interview with any person in any premises entered; and
- 23.9.1.7 carry out in those premises any inquiries that the Regulator deems fit.

23.10 **Assessment of compliance with the provisions of PAIA**

- 23.10.1 The Regulator may conduct an assessment on whether a public or private body generally complies with the provisions of this **PAIA**.
- 23.10.2 The Regulator may randomly conduct a compliance assessment on a body, of its own volition, however, the Regulator can also conduct the compliance assessment upon request by or on behalf of the Information Officer of a body or any other person. This means that any person may request the Regulator to conduct compliance assessment on a body. A person can also submit an anonymous request to conduct a compliance assessment, by indicating that he or she request to remain anonymous.
- 23.10.3 The Regulator will provide the person who requested the assessment with the assessment report and a recommendation of action to be undertaken, if any.

23.11 **Information Notice**

The Regulator may serve the Information Officer of a body with an Information Notice requiring said party to furnish the Regulator with information specified in the notice. For example, if a complaint lodged with the Regulator relates to a refusal of access based on any of the exempted grounds, the Regulator may request, in an Information Notice, copies of the records to which access has been refused in order to determine if the reasons for refusal are valid or not.

23.12 **Establishment of Enforcement Committee**

- 23.12.1 The Regulator is required to establish an Enforcement Committee³⁸, which has powers to -
 - 23.12.1.1 consider all matters referred to it by the Regulator in terms PAIA and make a finding in respect thereof; and
 - 23.12.1.1 make any recommendation to the Regulator regarding any action that should be taken against the Information Officer of a body.

23.13 **Enforcement Notice**

- 23.13.1 The Regulator may, after having considered the recommendations of the Enforcement Committee, serve the Information Officer of a body with an Enforcement Notice -

³⁸ Section 50 of POPIA

23.13.1.1 confirming, amending or setting aside the decision which is the subject of the complaint; or

23.13.1.2 Requiring the Information Officer to take such action or to refrain from taking such action as the Information Regulator has specified in the notice.

23.14 What are consequences for non-compliance with Enforcement Notices?

23.14.1 An Information Officer of a body who refuses to comply with an enforcement notice is guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three years or to both such a fine and such imprisonment.

23.14.2 Section 77K of **PAIA** signifies the importance of the right of access to Information or records. This section also strengthens the importance of the Regulator in so far as promotion of right of access to information is concerned.

24. APPLICATION TO COURT

24.1 Who can file an application to court against a decision?

24.1.1 requester or third party may only apply to a court for appropriate relief in terms of section 82 in the following circumstances:

24.1.1.1 After that requester or third party has exhausted the internal appeal process referred to in paragraph **22.3** above; or

24.1.1.2 After that requester or third party has exhausted the complaints procedure referred to in section 77A.

24.1.2 In terms of section 78(1) of **PAIA**, a requester or a third party has two options, either to refer a decision, listed in paragraphs 22.2.4, 23.4 and 23.5 above, to the Regulator or the Court. Whilst one is not compelled to approach the Regulator before approaching the Court, it is advisable that one should consider approaching the Regulator, as the Regulator has extensive and quick dispute resolution mechanisms, as opposed to the Court.

24.1.3 However, for the Court to have jurisdiction to adjudicate the matter, a requester or a third party must -

24.1.3.1 be aggrieved by either of the decisions, listed in paragraph 22.2.4, 23.4 or 23.5 above; or

24.1.3.2 have exhausted the complaints procedure with the Regulator or withdraw the complaint to the Regulator. This means that one cannot approach the Court if one's complaint is still pending with the Regulator.

24.1.4 If one is challenging the decision of an Information Officer of a private body, one needs to provide sufficient evidence to prove that the record requested is required for the exercise or protection of any other right(s).

24.2 **When can one file an application to Court against a decision of a body or Regulator?**

24.2.1 An application to Court by a requester or third party, who is either unsuccessful in an internal appeal to the appeal authority of the relevant sphere of government or aggrieved by a decision of the Information Officer of a body (listed in 22.2.4, 23.4 or 23.5 above) or that of the Regulator must be filed within 180 days from the date of the applicable event.

24.2.2 The Information Officer of a body or appeal authority of a Government, as the case may be, aggrieved by a decision of the Regulator may apply to a court for appropriate relief in terms of section 82, within 180 days³⁹.

24.2.3 A requester, third party, or a body, may apply to court to have any of the decisions they are aggrieved by reviewed by the Court.

24.2.4 An application to Court under **PAIA** is done through civil proceedings, and should be used as a last resort.

24.2.5 Cases for access to information can be heard before the Magistrate's Courts, as a court of first instance⁴⁰, and the High Court having jurisdiction.

24.2.6 Failing to bring the application within a period of 180 days may be condoned by the Court if one shows that the interests of justice so require. This means that the court may accept the late application if the issue to be adjudicated is found to be in the interests of justice.

³⁹ Section 78(4) of PAIA

⁴⁰ Section 91A of PAIA and Promotion of access to information Rules, 2019

If the records to which access is requested will assist one in applying for an appeal against imprisonment or assist one in getting further medical attention, for example, the court is likely to grant condonation in this regard.

24.2.7 An application may be brought in accordance with the procedure set out in rule 53 of the High Court Rules or in terms of rule 55 of the Magistrates' Court Rules if no records have or an incomplete record has been furnished by the administrator.

24.2.8 If the record has already been furnished, the application shall be brought in terms of rule 55 Magistrates' Court Rules, provided that where there is reason for the applicant to believe that the full record of proceedings may not have been provided by the administrator, the applicant may proceed in accordance with the procedure set out in Rule 53 of the High Court Rules, at its election, but shall indicate in its founding affidavit why there is reason to believe that the full record has not been provided⁴¹.

24.3 **What is the legal status of the Regulator's decision pending the decision of the Court?**

The Regulator's powers are mainly sourced from the Constitution, **POPIA** and **PAIA**. As a result, the enforcement notice issued by the Regulator has legal consequences and is therefore binding until such time as the court of law has decided otherwise. The Regulator's decisions are therefore effective and enforceable unless directed otherwise by the relevant Court.

24.4 **What are orders the Court hearing an application may grant?**

24.4.1 The court (either Magistrates' or High Court) hearing an application may make the following orders -

24.4.4.1 confirm, amend or set aside the decision of either the Information Officer, or Appeal Authority or Information Regulator;

24.4.4.2 require the Information Officer or Appeal Authority to take such action or to refrain from taking such action as the Court considers necessary within a period mentioned in the order;

24.4.4.3 grant an interdict, interim or specific relief, a declaratory order or an order for compensation;

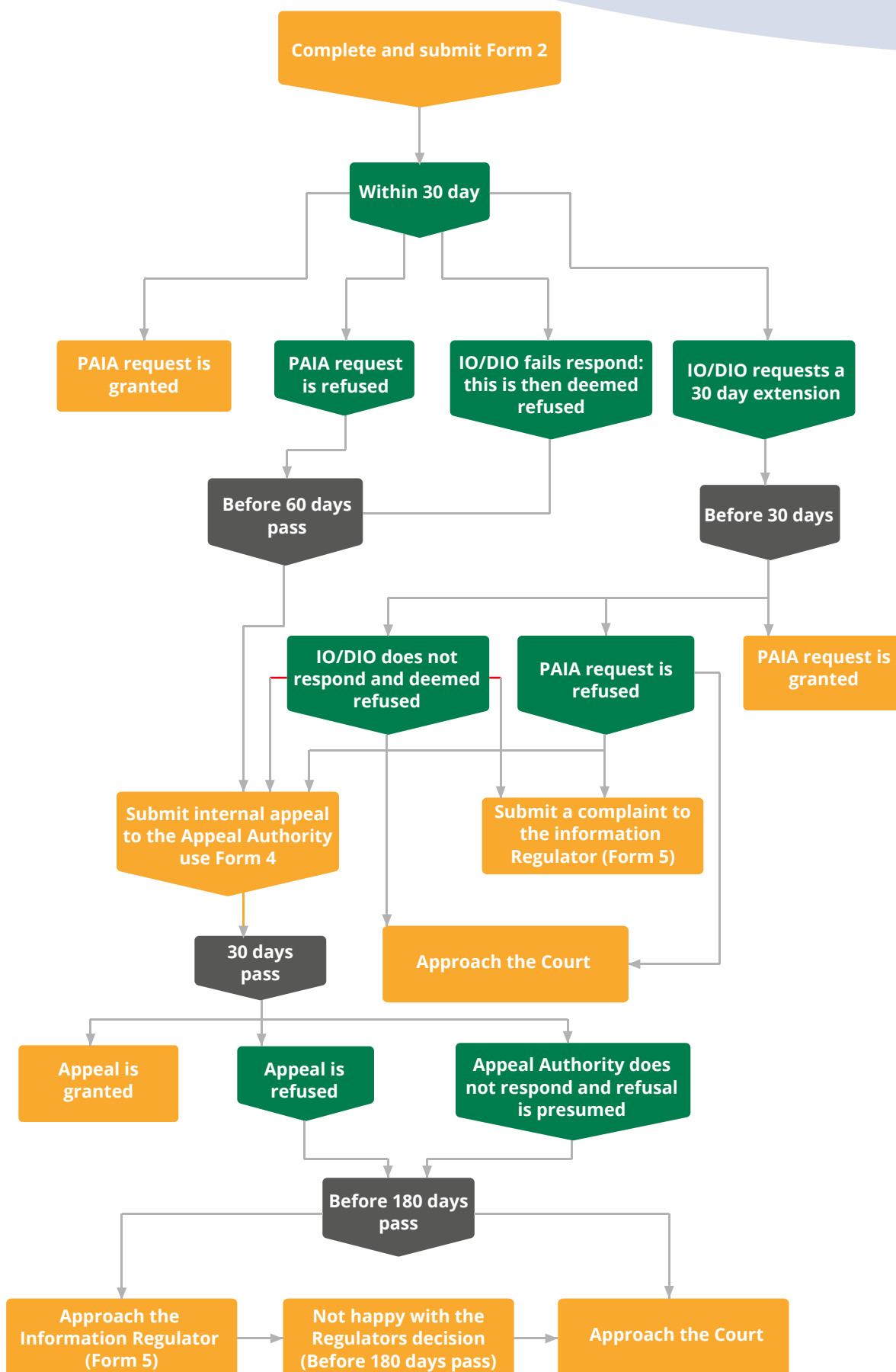
⁴¹ Rule 4 Promotion of access to information Rules, 2019

24.4.4.4 make an order of costs against any party;

24.4.4.5 in the interests of justice, condone non-compliance with the 180-day period within which to bring an application. As indicated above, sufficient grounds for failure to adhere to the prescribed period must be explained in detail in the accompanying application for condonation.

25. DIAGRAM OF PAIA REQUEST PROCESS

Please refer to the step-by step process chart flow, on the processes to be followed when exercise the right of access to information.



26. REGULATIONS MADE IN TERMS OF SECTION 92 OF PAIA

26.1 In accordance with section 92(1) and 92(4) of **PAIA**, Minister made Regulations relating to the Promotion of Access to Information, covering the following matters

26.1.1 Obligations of Information Regulator (**Regulation 2**)

26.1.2 Obligations of information officer (**Regulation 3**)

26.1.3 Automatic availability of certain records of public body (**Regulation 4**)

26.1.4 Voluntary disclosure and automatic availability of certain records of

26.1.5 Availability of records of political parties (**Regulation 6**)

26.1.6 Request for access to information (**Regulation 7**)

26.1.7 Outcome of request and fees payable (**Regulation 8**)

26.1.8 Internal appeal against decision of information officer of public body (**Regulation 9**)

26.1.9 Lodging of complaints (**Regulation 10**)

26.1.10 Procedure regarding investigation of complaints (**Regulation 11**)

26.1.11 Settlement of matter (**Regulation 12**)

26.1.12 Conciliation of matter (**Regulation 13**)

26.1.13 Assessment (**Regulation 14**)

26.1.14 Electronic communication (**Regulation 15**)

26.1.15 Offences and penalties (**Regulation 16**)

26.2 In accordance with section 79(1) of **PAIA**, the Rules Board for Courts of Law, with the approval of the Minister, made rules of procedure for -

26.2.1 a court in respect of applications in terms of section 78 of **PAIA**; and

26.2.2 a court to receive representations ex parte referred to in section 80(3)(a)

27. KEY LEGISLATIONS, REGULATIONS, NOTICES AND ACKNOWLEDGEMENT

Legislations, As May Be Amended From Time To Time

Promotion of Access to Information Act, Act 2 of 2000

Promotion of Administrative Justice Act, Act 3 of 2000

Promotion of Access to Information Amendment Act, Act 54 of 2002

Protection of Personal Information Act, Act 4 of 2013

Promotion of Access to Information Amendment Act, Act 31 of 2019

Political Party Funding Act, Act 6 of 2018

Regulations and Notices

Government Notice	Date of Publications	Subject and Description
Government Notice R.757 in GG No 45057	27 August 2021	Regulations relating to the Promotion of Access to Information, 2021
Government Notice R.991 in GG 28107	14 October 2005	Regulations that prescribe the grounds under which a person is exempt from having to pay fees.
Government Notice 397 in GG No. 44785	30 June 2021	Exemption of certain private bodies from compiling PAIA Manual.
Government Notice 1217 in GG 42717	19 September 2019	Designation of Magistrate Courts as having the capacity to hear PAIA matters.
Government Notice R.1284 in GG 42740	4 October 2019	Rules of procedure for applications to be made in terms of PAIA before High Court or Magistrates Court.



ACKNOWLEDGEMENT

This updated Guide on how to use **PAIA** was originally compiled by the South African Human Rights Commission (**SAHRC**) and the Regulator hereby acknowledges the original work of the **SAHRC**, including all its sources.

Issued by

INFORMATION REGULATOR

ANNEXURE B

FEES FOR RECORDS OF PRIVATE BODY (COMPANY)

Item	Description	Amount
1.	The request fee payable by every requester	R140.00
2.	Photocopy/printed black & white copy of A4-size page	R2.00 per page or part thereof.
3.	Printed copy of A4-size page	R2.00 per page or part thereof.
Item	Description	Amount
4.	For a copy in a computer-readable form on: (iii) Flash drive (to be provided by requestor) (iv) Compact disc	R40.00
	• If provided by requestor	R40.00
	• If provided to the requestor	R60.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6.	Copy of visual images	
7.	Transcription of an audio record, per A4-size page	R24.00
8.	Copy of an audio record on: (v) Flash drive (to be provided by requestor) (vi) Compact disc	R40.00
	• If provided by requestor	R40.00
	• If provided to the requestor	R60.00
9.	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	R145.00
	To not exceed a total cost of	R435.00
10.	Deposit: If search exceeds 6 hours	One third of amount per request calculated in terms of items 2 to 8.
11.	Postage, e-mail or any other electronic transfer	Actual expense, if any.

FEES FOR RECORDS OF PUBLIC BODIES

Item	Description	Amount
1.	The request fee payable by every requester	R100.00
2.	Photocopy of A4-size page	R1.50 per page or part thereof.
3.	Printed copy of A4-size page	R1.50 per page or part thereof.
4.	For a copy in a computer-readable form on: (i) Flash drive (to be provided by requestor) (ii) Compact disc • If provided by requestor • If provided to the requestor	R40.00 R40.00 R60.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6.	Copy of visual images	
7.	Transcription of an audio record, per A4-size page	R24.00
8.	Copy of an audio record on: (i) Flash drive (to be provided by requestor) (ii) Compact disc • If provided by requestor • If provided to the requestor	R40.00 R40.00 R60.00
9.	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of	R100.00 R300.00
10.	Deposit: If search exceeds 6 hours	One third of amount per request calculated in terms of items 2 to 9.
11.	Postage, e-mail or any other electronic transfer	Actual expense, if any.

1. Versoek om 'n kopie van die gids
2. Versoek om toegang tot rekord
3. Uitslag van versoek en gelde betaalbaar
4. Indiening van 'n interne appèl
5. Indiening van klagte
6. Erkenning van ontvangs van klagte
7. Kennisgewing aan inligtingsbeampte
8. Ontwikkeling en uitslag van ondersoek
9. Skikkingsvergadering
10. Skikkingsertifikaat
11. Bemiddeling van aangeleentheid
12. Bemiddelingsertifikaat
13. Versoek om 'n oudit
14. Kennisgewing van *versoek/Inligtingsreguleerder se eie besluit om 'n oudit te doen
15. Besluit oor doen van 'n oudit
16. Besluit oor oudit

VORM 1
VERSOEK OM 'n KOPIE VAN DIE GIDS
[Regulasie 2 en 3]

AAN: *Die Inligtingsreguleerder

Posbus 31533

Braamfontein,

2017

E-posadres infoereg@justice.gov.za

Telnommer: +27 (0) 10 023 5200

OF

*Die inligtingsbeampte

Ek,

Volle name:				
In my hoedanigheid as (merk met 'n "x"):	☐ Inligtingsbeampte	☐	☐ Ander	☐
Naam van *openbare/privaatliggaam (indien van toepassing)				
Posbusadres:				
Straatadres:				
E-posadres				
Faks:				
Kontaknommers:	Tel: (B):		Sel:	

Versoek hierby die volgende kopie(ë) van die Gids:

Taal (merk met 'n "X")	Getal kopieë	Taal (merk met 'n "X")	Getal kopieë
☐ Sepedi		☐ Sesotho	
☐ Setswana		☐ siSwati	
☐ Tshivenda		☐ Xitsonga	
☐ Afrikaans		☐ Engels	
☐ IsiNdebele		☐ isiXhosa	
☐ IsiZulu			

Wyse waarop afgehaal sal word (Merk met 'n "X"):

Persoonlike afhaling	Posadres	Faks	Elektroniese kommunikasie (Spesifiseer asb.)

Geteken te _____ op hede die _____ dag van _____ 20 _____

Handtekening van versoeker

VORM 2
VERSOEK OM TOEGANG TOT REKORD
[Regulasie 7]

Let Wel:

1. Bewys van identiteit moet deur versoeker aangeheg word.
2. Indien versoeke namens iemand anders gemaak word, moet bewys van sodanige magtiging by hierdie vorm aangeheg word.

AAN: _____

Adres: _____

E-posadres _____

Faksnommer: _____

Merk met 'n "X"

☐ Versoek word in my eie naam gerig ☐ Versoek word namens iemand anders gerig.

PERSOONLIKE INLIGTING

Volle name:			
Identiteitsnommer:			
Hoedanigheid waarin versoek gerig word (wanneer dit namens iemand anders gerig word):			
Posadres:			
Straatadres:			
E-posadres			
Kontaknommers:	Tel. (B):		Faks:
	Selfoon:		
Volle name van persoon wie die versoek gerig (indien van toepassing):			
Identiteitsnommer:			
Posadres:			
Straatadres:			
E-posadres			
Kontaknommers:	Tel. (B):		Faks:

	Selfoon:	
BESONDERHEDE VAN REKORD WAAROM AANVRAAG GEDOEN IS Voorsien volle besonderhede van die rekord waartoe toegang aangevra word, met inbegrip van die verwysingsnommer as dit aan u bekend is, sodat die rekord opgespoor kan word. (As die spasie wat voorsien word, onvoldoende is, gaan asseblief op 'n aparte bladsy Voort en heg dit by hierdie vorm aan. Alle bykomende bladsye moet onderteken wees.)		
Beskrywing van rekord of relevante deel van die rekord:		
Verwysingsnommer, indien beskikbaar:		
Enige verdere besonderhede van rekord:		
SOORT REKORD (Merk die toepaslike boks met 'n "X")		
Rekord is 'n geskrewe of gedrukte vorm		
Rekord bestaan uit virtuele beelde (dit sluit in foto's skyfies, video-opnames, rekenaargegenereerdebeelde, sketse, ens.)		
Rekord bestaan uit opgeneemde worde of inligting wat in klank herproduseer kan word		
Rekord word op 'n rekenaar of in 'n elektroniese of masjienleesbare vorm gehou		
VORM VAN TOEGANG (Merk die toepaslike boks met 'n "X")		
Gedrukte kopie van rekord (met inbegrip van kopieë van enige virtuele beelde, transkripsies en inligting gehou op rekenaar of 'n elektroniese of masjienleesbare vorm)		
Geskrewe of gedrukte transkripsie van virtuele beelde (dit sluit foto's. skyfies, video-opnames, rekenaargegenereerde beelde, sketse ens. in)		
Transkripsie van klankbaan (geskrewe of gerukte dokument)		
Kopie van rekord op 'n geheuestokkie (insluitend virtuele beelde en klankbane)		
Kopie van rekord op 'n kompakte skryf (insluitend virtuele beelde en klankbane)		
Kopie van rekord op wolk stoorarea bediener bewaar		

WYSE VAN TOEGANG

(Merk die toepaslike boks met 'n "X")

Persoonlike insae in rekord by registreerde adres van openbare/privaatliggaam (insluitend om na opgeneemde woorde te luister, inligting wat in klank herproduseer kan word, of inligting wat op 'n rekenaar of in 'n elektroniese of masjienleesbare vorm gehou word)

Pos van posadres

Pos van straatadres

Koerierdiens na straatadres

Faks van inligting in skriftelike of gedrukte formaat (insluitend transkripsies)

E-pos van inligting (insluitend klankbane, indien moontlik)

Wolk deel/lêer oordrag

Voorkeurtaal:

(Letwel dat indien die rekord nie in u voorkeurtaal beskikbaar is nie, toegang gegee kan word in die taal waarin die rekord beskikbaar is)

BESONDERHEDE VAN REG WAT UITGEOEFEN OF BESKERM STAAN TE WORD

As die spatie wat voorsien word, onvoldoende is, gaan asseblief op 'n aparte bladsy Voort en heg dit by hierdie vorm aan. Die versoeker moet al die bykomende bladsye onderteken.

Dui aan watter reg uitgeoefen of beskerm staan te word:

Verduidelik hoekom die rekord wat aangevra word vir die uitoefening of beskerming van die bogenoemde reg benodig word:

GELDE

- 'n Versoekgeld moet betaal word alvorens die versoek oorweeg sal word.
- U sal in kennis gestel word oor die bedrag wat as toegangsde betaal moet word.
- Die gelde betaalbaar vir toeganag tot 'n rekord hang af van die vorm waarin toegang vereis word en die redelike tyd wat vereis word om na 'n rekord te soek end it voor te berei.
- As u vir vrystelling van die betaling van enige gelde kwalifiseer, stel asseblief die rede vir vrystelling.

Rede:

U sal skriftelik in kennis gestel word of u versoek goedgekeur of afgekeur is en, indien goedgekeur, die kostes in verband met u versoek, indien enige. Dui asseblief die wyse waarop u korrespondensie wil ontvang aan:

Posadres	Faks	Elektroniese kommunikasie (Spesifiseer asb.)

Geteken te _____ op hede die _____ dag van _____ 20 _____

Handtekening van versoeker/ persoon namens wie versoek gerig word

VIR AMPTELIKE GEBRUIK

Verwysingsnommer:	
Versoek ontvang deur: (stel rang, naam en van van inligtingsbeampte)	
Datum ontvang:	
Toegangsgelde:	
Deposito (indien enige):	

Handtekening van Inligtingsbeampte

VORM 3
UITSLAG VAN VERSOEKE EN GELDE BETAALBAAR
[Regulasie 8]

Let wel:

1. As u versoek toegestaan word--
 - (a) is die deposito (indien enige), betaalbaar voordat u versoek verwerk word; en
 - (b) sal die aangevraagde rekord/gedeelte van die rekord, slegs vrygestel word sodra bewys van volle betaling ontvang is.
2. Gebruik asseblief die verwysingsnommer hieronder in alle toekomstige korrespondensie.

Verwysingsnommer: _____

AAN: _____

U versoek gedateer _____, het betrekking.

1. U het gevra vir:

Persoonlike insae in inligting by geregistreerde adres van openbare/privaatliggaam (insluitend om te luister na opgeneemde woorde, inligting wat in klank herproduseer kan word, of inligting wat op rekenaar of in 'n elektroniese of masjienleesbare vorm gehou word) wat gratis is. U moet 'n afspraak maak vir die insae in die inligting en moet hierdie Vorm saam met u bring. As u dan enige vorm van reproduksie van die inligting vereis, sal u aanspreeklik wees vir die gelde in Aanhangel B voorgeskryf.	
--	--

OF

2. U het gevra vir:

Gedrukte kopieë van die inligting (insluitend om te luister na opgeneemde woorde, inligting wat in klank herproduseer kan word, of inligting wat op rekenaar of in 'n elektroniese of masjienleesbare vorm gehou word)	
Skriftelike of gedrukte transkripsie van virtuele beelde (insluitend foto's, skyfies, video-opnames, rekenaargegenereerde beelde, sketse, ens.)	
Transkripsie van klankbaan (geskrewe of gedrukte dokument)	
Kopie van inligting op geheuestokkie (insluitend virtuele beelde en klankbane)	
Kopie van inligting op kompakskyf (insluitend virtuele beelde en klankbane)	
Kopie van rekord op wolk stoorarea bediener bewaar	

3. Moet voorgelê word:

Posdienste na posadres	
Posdienste na straatadres	
Koerierdiens na straatadres	
Facsimks van inligting in geskrewe of gedrukte formaat (insluitend transkripsies)	
E-pos van inligting (insluitend klankbane indien moontlik)	
Wolk deel/lêer oordrag	
Voorkeurtaal: (Let wel dat indien die rekord nie in u voorkeurtaal beskikbaar is nie, toegang gegee kan word in die taal waarin die rekord beskikbaar is)	

Geliewe kennis te neem dat u versoek:

- ☐ Goedgekeur is
- ☐ Geweier is, om die volgende redes:

4. Gelde betaalbaar vir u versoek:

Item	Koste per A4-grootte bladsy of deel daarvan/item	Getal bladsye/items	Totaal
Fotokopie			
Gedrukte afskrif			
Afskrif in 'n rekenaarleesbare vorm op:			
(i) Geheuestokie	R40.00		
• Deur versoeker voorsien te word			
(ii) Kompakskyf	R40.00		
• Indien deur versoeker verskaf			
• Indien aan versoeker verskaf	R60.00		

Transkripsie van visuele beelde	Diens sal uitbestee word. Sal afhang van kwotasie van diensverskaffer.		
Kopie van visuele beelde			
Transkripsie van 'n oudiorekord			
Kopie van 'n oudiorekord, per A4-grootte	R24.00		
Kopie van 'n oudiorekord (i) Geheuestokkie Indien deur versoeker verskaf (ii) Kompakskyf Indien deur versoeker verskaf Indien aan versoeker verskaf	R40.00 R40.00 R60.00		
Postgeld, e-pos of enige ander elektroniese oordrag:	Werklike kostes		
TOTAAL:			

5. Deposito betaalbaar (as soektog meer as ses uur duur):

☐

Ja

☐

Nee

Ure gesoek		Bedrag van deposito (Bereken op een derde van totale bedrag per versoek)	
------------	--	---	--

Die bedrag moet in die volgende bankrekening inbetaal word:

Naam van Bank: _____

Naam van rekeninghouer: _____

Soort rekening: _____

Rekeningnommer: _____

Takkode: _____

Verwysingsnommer: _____

Lê bewys van betaling voor aan: _____

Geteken te _____ op hede hierdie _____ dag van _____ 20 _____

Inligtingsbeampte

VORM 4
INDIENING VAN 'N INTERNE APPEL
[Regulasie 9]

Verwysingsnommer _____

BESONDERHEDE VAN OPENBARE LIGGAAM				
Naam van openbare liggaam:				
Naam en van van inligtingsbeampte:				
BESONDERHEDE VAN KLAER WAT DIE INTERNE APPÈL INDIEN				
Volle name:				
Identiteitsnommer:				
Posadres:				
Kontak nommers:	Tel. (B):		Faks:	
	Selfoon:			
E-posadres				
Word die interne appèl namens iemand anders ingedien?	Yes		No	
Indien "ja", die hoedanigheid waarin 'n interne appèl namens iemand anders ingedien word: (Bewys van die kapasiteit waarin die appèl ingedien word, indien van toepassing, moet aangeheg word.)				
BESONDERHEDE VAN PERSOON NAMENS WIE DIE INTERNE APPÈL INGEDIEN WORD (As deur 'n derde party ingedien)				
Volle name:				
Identiteitsnommer:				
Posadres:				
Kontak nommers:	Tel. (B):		Faks:	
	Selfoon:			
E-posadres				
BESLUIT WAARTEEN DIE INTERNE APPÈL INGEDIEN WORD (merk die gepaste boksie met 'n "X")				
Weiering van versoek om toegang:				
Besluit aangaande gelde ingevolge artikel 22 van die Wet voorgeskryf:				
Besluit aangaande die verlenging van die tydperk waarbinne die versoek ingevolge artikel 26(1) van die Wet hanteer moet word:				
Besluit ingevolge artikel 29(3) van die Wet om toegang in die vorm deur die versoeker aangevra, te weier:				
Besluit om versoek om toegang toe te staan:				
GRONDE VIR APPÈL (As die spatie wat voorsien word, onvoldoende is, gaan asseblief op 'n aparte bladsy voort en heg dit by hierdie vorm aan. Alle bykomende bladsye moet onderteken wees.)				

Stel die gronde waarop die interne appèl gebaseer is:	
Stel enige ander inligting wat by die oorweging van die appèl relevant kan wees:	

U sal skriftelike in kennis gestel word oor die besluit oor u interne appèl. Dui asseblief aan hoe u in kennis gestel wil word:

Posadres	Faks	Elektroniese kommunikasie (Dui aan asseblief)

Geteken te _____ op hede die _____ dag van _____ 20 _____

Handtekening van appellant/ Derde party

VIR AMPTELIKE GEBRUIK

AMPTELIKE REKORD VAN INTERNE APPÈL

Appèl ontvang deur: (stel rang, naam en van van inligtingsbeampte)					
Datum ontvang:					
Appèl vergesel van die redes vir die inligtingsbeampte se besluit en, waar van toepassing, die besonderhede van enige derde party waarmee die rekord verband hou, deur die inligtingsbeampte voorgelê:				Ja	
				Nee	
RESULTAAT VAN APPÈL					
Weiering van versoek om toegang. Bekragtig?	Ja		Nuwe besluit (indien nie bekragtig nie)		
	Nee				
Gelde (Art 22). Bekragtig?	Ja		Nuwe besluit (indien nie bekragtig nie)		
	Nee				
Verlenging (Art 26(1)). Bekragtig?	Ja		Nuwe besluit (Indien nie bekragtig nie)		
	Nee				
Toegang (Art 29(3)). Bekragtig?	Ja		Nuwe besluit (indien nie bekragtig nie)		
	Nee				
Versoek om toegang toegestaan. Bekragtig?	Ja		Nuwe besluit (indien nie bekragtig nie)		
	Nee				

Geteken te _____ op hede die _____ dag van _____ 20 _____

Tersaaklike owerheid

VORM 5
INDIENING VAN KLAGTE
[Regulasie 10]

Let wel:

1. Hierdie vorm is ontwerp om die Versoeker (hierna “die Klaer” genoem) by te staan in die aanvra van ‘n hersiening van ‘n openbare of privaatliggaam se antwoord of nalate om te antwoord op ‘n versoek om toegang tot rekords kragtens die Wet op Bevordering van Toegang tot Inligting, 2000 (Wet Nr. 2 van 2000) (“BTI-wet”). Vul asseblief hierdie vorm in en stuur dit aan die Inligtingsreguleerder (“Reguleerder”) of voltooi die aanlyn klagtevorm beskikbaar by <https://www.justice.gov.za/inforeg/>.
2. Die BTI-wet gee die publiek ‘n reg om ‘n klagte by die Reguleerde in te dien oor enige van die aard van klagtes in Deel E van hierdie klagtevorm uiteengesit.
3. Dit is die Reguleerder se beleid om ‘n ondersoek uit te stel of ‘n klagte te verwerp as die Klaer nie eers die openbare of privaatliggaam (Hierna “die Liggaam” genoem) ‘n geleentheid gegun het om te reageer op en te probeer om die kwessie op te los nie. Om die Liggaam te help om u bekommernisse te hanteer voordat die Reguleerder genader word moet u die voorgeskrewe BTI-wet vorm invul en dit aan die Liggaam voorlê.
4. ‘n Afskrif van hierdie vorm sal aan die Liggaam wat die onderwerp van u klagte is, voorsien word. Die inligting wat u op hierdie vorm voorsien, by hierdie vorm aanheg of later voorsien, sal slegs gebruik word om te probeer om u geskil op te los, tensy andersins hierin gestel.
5. Die Reguleerder sal slegs u klagte aanvaar sodra u bevestig dat u aan die volgende voorvereistes voldoen het.
6. Heg asseblief afskrifte van die volgende dokumente aan, as u hulle het:
 - Kopie van die vorm aan die organisasie waarin u versoek om toegang tot rekords gerig is;
 - Die organisasie se antwoord op u klagte of versoek om toegang;
 - Enige ander korrespondensie tussen u en die organisasie aangaande u versoek;
 - Afskrif van die appèlvorm, as u klagte met ‘n openbare liggaam verband hou;
 - Die organisasie se antwoord op u appèl;
 - Enige ander korrespondensie tussen u en die organisasie oor u appèl;
 - Dokumentasie wat u magtig om namens iemand anders te handel (indien van toepassing);
 - Hofbevel of hofdokumente relevant tot u klagte, indien enige.
7. As die spatie in hierdie Vorm voorsien, nie genoeg is nie, dien inligting as ‘n aanhangsel by hierdie Vorm in en onderteken elke bladsy.

AAN: Die Inligtingsreguleerder
Posbus 31533
Braamfontein
2017
E-posadres infoereg@justice.gov.za
Telnommer: +27 (0) 10 023 5200

KAPASITEIT VAN PERSOON/PARTY WAT KLAGTE INDIEN
(Merk met 'n "X")

☐

Klaer persoonlik

☐

Verteenwoordiger van klaer

☐

Derde party

VOORVEREISTES

Het u 'n versoek (BTI-wet vorm) vir toegang tot 'n rekord van 'n openbare/privaatliggaam ingedien?	Ja		Nee	
Het 30 dae verstryk vanaf die datum waarop u u BTI-vorm ingedien het?	Ja		Nee	
Het u al die interne appèlprosedures teen 'n besluit van die inligtingsbeamppte van 'n openbare liggaam uitgeput?	Ja		Nee	
Het u by die Hof aansoek gedoen om gepaste regshulp aangaande hierdie aangeleentheid?	Ja		Nee	

SLEGS VIR REGULEERDER SE GEBRUIK

Ontvang deur: (Volle name)				
Posisie:				
Handtekening:				
Klage aanvaar:	Ja		Nee	
Verwysingsnommer:				

Datumstempel

Posadres	Faks	Ander elektroniese kommunikasie (Dui asb. aan)	
DEEL A			
PERSOONLIKE INLIGTING VAN KLAER			
Volle name:			
Identiteitsnommer:			
Posadres:			
Straatadres:			
E-posadres			
Kontaknommers:	Tel: (B):		Faks
	Selfoon:		
DEEL B			
INLIGTING VAN VERTEENWOORDIGER			
(Vul slegs in as u verteenwoordig sal word. 'n Produksie moet aangeheg wees as 'n die klaer verteenwoordig is, in gebreke waarvan sal die klagte afgewys word)			
Volle name van verteenwoordiger:			
Aard van verteenwoordiger:			
Identiteitsnommer/Registrasienommer:			
Posadres:			
Straatadres:			
E-posadres			
Kontaknommers:	Tel: (B):		Faks:
	Selfoon:		
DEEL C			
INLIGTING VAN DERDE PARTY			
(Heg asb. 'n magtingsbrief aan)			
Tipe liggaam:	Privaat		Openbaar
Naam van * *openbare/privaatliggaam:			
Registrasienommer (indien enige):			
Naam, van en title van persoon gemagtig om klagte in te dien:			
Posadres:			
Straatadres:			

E-posadres				
Kontaknommers:	Tel. (B):		Faks:	
	Selfoon:			
DEEL D				
ORGANISASIE WAARTEEN DIE KLAGTE INGEDIEN WORD				
Soort liggaam:	Privaat		Openbaar	
Naam van *openbare/privaatliggaam:				
Registrasienommer (indien enige):				
Naam, van en title van persoon by die openbare of privaatlighaam met wie u gewerk het om te probeer om u klagte of versoek om toegang tot inligting op te los:				
Posadres:				
Straatadres:				
E-posadres				
Kontaknommers:	Tel. (B):		Faks:	
	Selfoon:			
Verwysingsnommer gegee (indien enige):				
DEEL E				
KLAGTE				
Vertel ons van die stappe wat u geneem het om u klagte te probeer oplos (Klagtes moet eers regstreeks by die opebare liggaam vir antwoord en moontlike oplossing ingedien worde; daar is beperkte uitsonderings)				
Datum waarop versoek om toegang tot rekords ingedien is:				
Spesifiseer asseblief die aard van die reg(te) wat uitgeoefen of beskerm moet word, as 'n klagte teen 'n privaatlighaam is:				
Het u probeer om die aangeleentheid met die organisasie op te los?	Ja		Nee	

Indien ja, wanneer het u dit ontvang? (Heg asseblief die brief by hierdie aansoek aan.)			
Het u teen 'n besluit van die inligtingsbeampte van die openbare liggaam geappelleer?	Ja		Nee
Indien ja, wanneer het u 'n appèl ingedien?			
Het u by die hof aansoek gedoen om gepaste regshulp aangaande hierdie aangeleentheid?	Ja		Nee
Indien ja, dui asseblief aan wanneer die aangeleentheid deur die hof bereg is? Heg asseblief 'n hofbevel, as daar een is, aan.			
DEEL F UITVOERIGE SOORT TOEGANG TOT REKORDS (Kies asseblief een of meer van die volgende om u klagte aan die Reguleerder te verduidelik)			
Onsuksesvolle appèl: (Artikel 77A(2)(a) of Artikel 77A(3) van BTI-wet)	Ek het teen die besluit van die openbare liggaam geappelleer en die appèl was onsuksesvol.		
Onsuksesvolle aansoek om kondonاسie: (Artikel 77A(2)(b) en 75(2) van BTI-Wet)	Ek het my appèl teen die besluit van die openbare liggaam laat ingedien en het om kondonاسie aansoek gedoen. Die aansoek om kondonاسie is van die hand gewys.		
Weiering van 'n versoek om toegang: (Artikel 77A(2)(c) (i) en 77A(2)(d)(i) of 77A(3)(b) van BTI-Wet)	Ek het toegang tot inligting gehou deur 'n liggaam versoek en daardie versoek is geweier of gedeeltelik geweier.		
Die liggaam vereis dat ek gelde betaal en ek voel dit is buitensporig: (Artikels 22 van 54 of BTI-Wet)	Aanbied of betaling van die voorgeskrewe gelde.		
	Die aanbod of betaling van 'n deposito.		
Terugbetaling van die deposito: (Artikel 22(4) van BTI-Wet)	Die inligtingsbeampte het geweier om 'n deposito ten opsigte van 'n aansoek om toegang wat geweier is, terug te betaal.		
Stem nie saam met tydverlenging nie: (Artikel 26 of 57 van BTI-Wet)	Die liggaam het besluit om die tydsbeperking op 'n antwoord op my versoek te verleng, en ek stem nie saam met die aangevraagde tydsbeperkingverlenging nie of 'n tydsverlenging wat geneem is om op my versoek om toegang te reageer, is onvanpas.		

Vorm van toegang is geweier: (Artikel 29(3) of 60(a) van BTI-Wet)	Ek het toegang in 'n bepaalde en redelike vorm versoek en sodanige vorm van toegang is geweier.	
Geagte weiering: (Artikel 27 of 58 van BTI-Wet)	Dit is al meer as 30 dae sedert ek my versoek gemaak het en ek het nie 'n besluit ontvang nie. Geen antwoord is ontvang nie en geen verlenging is geneem nie.	
	Verlengingstydperk het verstryk en geen antwoord is ontvang nie.	
Ontvanpaste openbaarmaking van 'n rekord: (Verpligte gronde vir weiering van toegang tot rekord)	Rekords (wat onderhewig is aan die gronde vir weiering van toegang tot rekords) is onvanpas of onredelik openbaar gemaak.	
Geen voldoende redes vir die weiering van toegang nie: (Artikel 56(3)(a) van BTI-Wet)	My versoek om toegang is geweier, en 'n liggaam het nie geldige of voldoende redes vir die wiering gegee nie, met inbegrip van die bepalings van hierdie Wet waarop staatgemaak is.	
Gedeeltelike toegang tot rekord: (Artikel 28(2) of 59(2) van BTI-Wet)	Die liggaam het toegang tot deel van die aangevraagde rekords toegestaan en ek voel meer daarvan moet openbaar gemaak word.	
Kwytskelding van gelde: (Artikel 22(8) of 54(8) van BTI-Wet)	Ek is vrygestel van die betaling van enige gelde en die liggaam het geweier om my versoek om kwytskelding van die gelde toe te staan.	
Rekords wat nie opgespoor kan word nie of wat nie bestaan nie: (Artikel 23 of 55 van BTI-Wet)	Die liggaam het aangedui dat sommige of al die aangevraagde rekords nie bestaan nie en ek glo dat meer rekords wel bestaan.	
Versuim om rekords openbaar te maak:	Die liggaam het besluit om my toeganag tot aangevraagde rekords te gee, maar ek het hulle nie ontvang nie.	
Geen regsbevoegdheid nie (uitoefening of beskerming van enige regte): (Artikel 50(1)(a) van BTI-Wet)	Die liggaam het aangedui dat die aangevraagde rekords van die BTI-Wet uitgesluit is en ek stem nie saam nie.	
Beuselagtige of ergerlike versoek: (Artikel 45 van BTI-Wet)	Die liggaam het aangedui dat my versoek klaarblyklik beuselagtig of ergelik is en ek stem nie saam nie.	
Ander: (Verduidelik asseblief):		

DEEL G
VERWAGTE UITSLAG

Hoe dink u kan die Reguleerder u bystaan? Beskryf die resultaat of uitslag wat u verlang.

DEEL H
OOREENKOMSTE

Die regsgrondslag vir die volgende ooreenkomste word verduidelik in die Privaatheidkennisgewing oor hoe om u klagtedokument in te dien. Om die Reguleerder in staat te stel om u klagte te verwerk, moet u elkeen van die boksies hieronder aftik om aan te dui dat u toestem:

☐ Ek stem toe dat die Reguleerder inligting wat in my klagte voorsien is, mag gebruik in die navorsing van kwessies aangaande die reg op toegang tot inligting asook die beskerming van die reg op privaatheid in Suid- Afrika. Ek verstaan die Reguleerder sal nooit my persoonlike of ander identifiserende inligting in enige openbare verslag insluit nie, en dat my persoonlike inligting steeds ingevolge die Wet op Beskerming van Persoonlike inligting, 2013 (Wet Nr. 4 van 2013), beskerm word. Ek verstaan dat as ek nie instem nie, die Reguleerder steeds my klagte sal verwerk.

☐ Die inligting in hierdie Klagtevorm is tot die beste van my wete en oortuiging, waar.

☐ Ek magtig die Reguleerder om my persoonlike klagte-inligting (soos die inligting oor my in hierdie klagtevorm) in te samel en dit te gebruik om my menseregteklagte aangaande die reg op toegang tot inligting en/of die beskerming van die reg op privaatheid te verwerk.

☐ Ek magtig enigiemand (soos 'n werknemer, diensverskaffer, getuie) wat inligting het wat nodig is om my klagte te verwerk, om dit met die Reguleerder te deel. Die Reguleerder kan hierdie inligting verkry deur met getuies te praat of vir skriftelike rekords te vra. Afhangende van die aard van die klagte, kan hierdie rekords personeellêers of werknemerdata, mediese of hospitaalrekords, en finansiële of belastingbetalerinligting insluit.

☐ As enige van my kontakinligting tydens die klagteproses verander, is dit my verantwoordelikheid om die Reguleerder in te lig; andersins kan my klagte vertraag of selfs toegemaak word.

Geteken te _____ op hede die _____ dag van _____ 20 _____

Klaer/Verteenwoordiger/Gemagtigde persoon of Derde party

VORM 6
ERKENNING VAN ONTVANGS VAN KLAGTE
[Regulasie 11(1)]

Let wel: Gebruik asseblief die verwysingsnommer hieronder in alle toekomstige korrespondensie.

Verwysingsnommer: _____

AAN: _____

KLAGTE INGEDIEN

Ontvangs van u klagte, aangaande:

Onsuksesvolle appèl: (Artikel 77A(2)(a) of artikel 77A(3)(a) van BTI-Wet)	Ek het teen die besluit van die openbare liggaam geappelleer en die appèl is onsuksesvol.	
Onsuksesvolle aansoek om kondonasie: (Artikels 77A(2)(b) en 75(2) van BTI- Wet)	Ek het my appèl teen die besluit van die openbare liggaam laat ingedien en om kondonasie aansoek gedoen. Die aansoek om kondonasie is afgewys.	
Weiering van 'n versoek om toegang: (Artikel 77A(2)(c) (i) of 77A(d)(i) of 77A(3)(b) van BTI- Wet)	Ek het toegang tot inligting gehou deur 'n liggaam versoek en daardie versoek is geweier of gedeeltelik geweier.	
Die liggaam vereis dat ek gelde betaal en ek voel dit is buitensporig: (Artikel 22 of 54 van BTI-Wet)	Aanbod of betaling van die voorgeskrewe versoekgelde.	
	Die aanbod of betaling van 'n deposito.	
Terugbetaling van die deposito: (Artikel 22(4) van BTI-Wet)	Die inligtingsbeampte het geweier om 'n deposito wat betaal was ten psigte van 'n versoek om toegang wat geweier is, terug te betaal.	

Stem nie saam met tydverlenging nie: (Artikel 26 of 57 van BTI-Wet)	Die liggaam het besluit om die tydsbeperking om op my versoek te antwoord, te verleng, en ek stem nie saam met die versoekte tydsbeperkingverlening nie of 'n tydsverlening geneem om op my versoek om toegang te antwoord, is onvanpas.	
Vorm van toegang geweier: (Artikel 29(3) of 60(a) van BTI-Wet)	Ek het toegang in 'n bepaalde en redelike vorm versoek en sodanige vorm van toegang is geweier.	
Geagte weiering: (Artikel 27 of 58 van BTI-Wet)	Dit is meer as 30 dae sedert ek my versoek gerig het en ek het nog nie 'n besluit ontvang nie. Geen antwoord is ontvang nie en geen verlenging is geneem nie.	
	Verlengingstydperk het verstryk en geen antwoord is ontvang nie.	
Onvanpaste openbaarmaking van 'n rekord: (Verpligte gronde vir weiering van toegang tot rekord)	Rekords (wat onderhewig is aan die gronde vir weiering van toegang tot rekords) is onvanpas of onredelik openbaar gemaak.	
Geen voldoende redes vir die weiering van toegang nie: (Artikel 56(3)(a) van BTI-Wet)	My versoek om toegang is geweier, en 'n liggaam het nie geldige of voldoende redes gegee vir die weiering nie, met inbegrip van die bepalings van die Wet waarop staatgemaak is.	
Gedeeltelike toegang tot rekord: (Artikel 28(2) of 59(2) van BTI-Wet)	Die liggaam het toegang toegestaan tot slegs 'n deel van die aangevraagde rekords en ek glo dat meer daarvan openbaar gemaak moet word.	
Kwytskelding van gelde: (Artikel 22(8) of 54(8) van BTI-Wet)	Ek is vrygestel lvan betaling van enige gelde en die liggaam het geweier om my versoek om kwytskelding van die gelde toe te staan.	
Rekords wat nie gevind kan word nie of nie bestaan nie: (Artikel 23 of 55 van BTI-Wet)	Die liggaam het aangedui dat sommige of al die aangevraagde rekords nie bestaan nie en ek glo dat meer rekords wel bestaan.	
Versuim om rekords openbaar te maak:	Die liggaam het besluit om my toegang tot die aangevraagde rekords te gee, maar ek het hulle nie ontvang nie.	
Geen regsbevoegdheid (uitoefening of	Die liggaam het aangedui dat die aangevraagde rekords van die BTI-wet uitgesluit is en ek stem nie saam nie.	

beskerming van enige regte): (Artikel 50(1)(a) van BTI-Wet)		
Beuselagtige of ergerlike versoek: (Artikel 45 of BTI-Wet)	Die liggaam het aangedui dat my versoek klaarblyklik beuselagtig of ergerlik is en ek stem nie saam nie.	
Ander: (Verduidelik asseblief):		

Word hierby erken. Let asseblief daarop dat dieklagte soos volg hanteer sal word:

☐ Die Inligtingsreguleerder sal die klagte verder ondersoek.

☐ Die klagte sal na die Afdwingingskomitee verwys word.

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder

VORM 7
KENNISGEWING AAN INLIGTINGSBEAMPTTE
[Regulasie 11(2)]

Let wel: Gebruik asseblief die onderstaande verwysingsnommer in alle toekomstige korrespondensie.

Verwysingsnommer: _____

AAN: _____

RE: KLAGTE ONTVANG EN VOORNEME OM ONDERSOEK IN TE STEL

Die volgende klagte is ontvang van _____,
 identiteitsnommer _____, op _____.

KLAGTE INGEDIEN		
Onsuksesvol appèl: (Artikel 77A(2)(a) of 77A(3)(a) van BTI-Wet)	Ek het teen die besluit van die openbare liggaam geappelleer en die appèl is onsuksesvol.	
Onsuksesvolle aansoek om kondonاسie: (Artikels 77A(2)(b) en 75(2) van BTI-Wet)	Ek het my appèl teen die besluit van die openbare liggaam laat ingedien en het om kondonاسie aansoek gedoen. Die aansoek om kondonاسie is afgewys.	
Weiering van 'n versoek om toegang: (Artikel 77A(2)(c) (i) of 77A (d)(i) of 77A(3)(b) van BTI-Wet)	Ek het toegang versoek tot inligting wat 'n liggaam hou en daardie versoek is geweier of gedeeltelik geweier.	
Die liggaam vereis dat ek gelde betaal en ek voel dit is buitensporig: (Artikel 22 of 54 van BTI-Wet)	Aanbod of betaling van die voorgeskrewe versoekgelde.	
	Die aanbod of betaling van 'n deposito.	
Terugbetaling van die deposito: (Artikel 22(4) van BTI-Wet)	Die inligtingsbeampte het geweier om 'n deposito terug te betaal wat ten opsigte van 'n versoek om toegang wat geweier is, betaal is.	
Stem nie saam met tydverlenging nie: (Artikel 26 of 57 van BTI-Wet)	Die liggaam het besluit om die tydsbeperking vir reaksie op my versoek te verleng, en ek stem nie saam met die aangevraagde	

	tydverlening wat geneem is om op my versoek om toegang te reageer, is onvanpas.	
Vorm van toegang geweier: (Artikel 29(3) of Artikels 60(a) van BTI-Wet)	Ek het versoek om toegang op 'n bepaalde en redelike wyse te kry en sodanige wyse van toegang is geweier.	
Geagte weiering: (Artikel 27 of 58 van BTI-Wet)	Dit is meer as 30 dae sedert ek my versoek gerig het en ek het nog nie 'n besluit ontvang nie.	
	Verlengingstydperk het verstryk en geen antwoord is ontvang nie.	
Onvanpaste openbaarmaking van 'n rekord: (Verpligte gronde vir weiering van toegang tot rekord)	Rekords (wat onderhewig is aan die gronde vir weiering van toegang tot rekords) is onvanpas of onredelik openbaar gemaak.	
Geen voldoende redes vir weiering van toegang: (Artikel 56(3)(a) van BTI-Wet)	My versoek om toegang is geweier, en 'n liggaam het nie geldige of voldoende redes vir die weiering gegee nie, met inbegrip van die bepalinge van hierdie Wet waarop staatgemaak is.	
Gedeeltelike toegang tot rekord: (Artikel 28(2) of 59(2) van BTI-Wet)	Die liggaam het toegang tot 'n deel van die aangevraagde rekords toegestaan en ek glo dat meer daarvan openbaar gemaak moet word.	
Kwytskelding van gelde: (Artikel 22(8) of 54(8) van BTI-Wet)	Ek is vrygestel van die betaling van enige gelde en die liggaam het geweier om my versoek toe te staan om die gelde kwyd te skeld.	
Rekords wat nie opgespoor kan word nie of wat nie bestaan nie: (Artikel 23 of 55 van BTI-Wet)	Die liggaam het aangedui dat sommige of al die aangevraagde rekords nie bestaan nie en ek glo meer rekords bestaan wel.	
Versuim om rekords openbaar te maak:	Die liggaam het besluit om my toegang tot aangevraagde rekords te gee, maar ek het hulle nie ontvang nie.	
Geen regsbevoegdheid (uitoefening of beskerming van enige regte): (Artikel 50(1)(a) van BTI-Wet)	Die liggaam het aangedui dat die aangevraagde rekords van die BTI-Wet uitgesluit is en ek stem nie saam nie.	
Beuselaftige of ergerlike versoek: (Artikel 45 of BTI-Wet)	Die liggaam het aangedui dat my versoek klaarblyklik beuselagtig of ergerlik is en ek stem nie saam nie.	
Ander:		

(Verduidelik
asseblief):

U word hierby in kennis gestel dat die Inligtingsreguleerder voornemens is om die aangeleentheid te ondersoek. U word hierby versoek om op die klagte te reageer en die Inligtingsreguleerder te voorsien van enige inligting, item of dokument, waarop u besluit gegrond is, binne 20 werksdae na ontvangs van hierdie inligting.

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder

VORM 8
ONTWIKKELING EN UITSLAG VAN ONDERSOEK
[Regulasie 11(5)]

Verwysingsnommer: _____

AAN: _____

RE: KLAGTE INGEDIEN AANGAANDE _____

Let asseblief daarop dat:

☐

Die ondersoek aan die gang is.

☐

Die volgende besluit geneem is:

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder

VORM 9
SKIKKINGSVERGADERING
[Regulasie 12(2)]

Verwysingsnommer: _____

AAN: _____

RE: KLAGTE INGEDIEN AANGAANDE: _____

GELIEWE KENNIS TE NEEM DAT:

(a) Dit uit die aard van die klagte en die reaksie in verband met die klagte, wil voorkom dat dit moontlik mag wees om 'n skikking tussen die betrokke partye te bewerkstellig.

(b) Die Inligtingsreguleerder besluit het om as 'n fasiliteerder in die aangeleentheid op te tree.

U WORD HIERMEE GENOOI

Om 'n konsiliasievergadering by te woon by (*plek*) _____ op die _____ dag van _____ 20_____, om _____ (tyd) en op einge datum daarna wat nodig mag wees, aangaande die bogenoemde aangeleentheid.

Geliewe u bywoning by die Inligtingsreguleerder te bevestig op/voor _____.

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder

VORM 10
SKIKKINGSERTIFIKAAT
[Regulasie 12(4)]

Verwysingsnommer: _____

IN DIE AANGELEENTHEID TUSSEN

Volle name	
Identiteitsnommer	

Volle name	
Identiteitsnommer	

Volle name	
Identiteitsnommer	

Volle name	
Identiteitsnommer	

EN

Naam van openbare/privaatliggaam	
Naam van inligtingsbeampte	

Ek, _____ in my hoedanigheid as fasiliteerder in die aangeleentheid tussen die bogenoemde partye,

SERTIFISEER HIERBY DAT:

☐ Die aangeleentheid opgelos is en die volgende skikking bereik is:

☐ Die aangeleentheid nie opgelos is nie en terugverwys sal word na die Inligtingsreguleerder om ingevolge artikel 77C van die Wet hanteer te word.

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder

VORM 11
BEMIDDELING VAN AANGELEENTHEID
[Regulasie 13(2)]

Verwysingsnommer: _____

AAN: _____

RE: KLAGTE INGEDIEN AANGAANDE: _____

GELIEWE KENNIS TE NEEM DAT:

- (a) Dit uit die aard van die klagte en die reaksie in verband met die klagte, wil voorkom dat dit moonlik mag wees om 'n skikking tussen die betrokke partye te bewerkstellig.
- (b) Die Inligtingsreguleerder besluit het om as bemiddelaar in die aangeleentheid op te tree.

U WORD HIERBY GENOOI

Om 'n konsiliasievergadering by te woon by (*plek*) _____ op die _____ dag van _____ 20_____, om _____ (*tyd*) en op enige datum daarna wat nodig mag wees, aangaande die bogenoemde aangeleentheid.

Geliewe u bywoning by die Inligtingsreguleerder te bevestig op/voor _____

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder

VORM 12
BEMIDDELINGCERTIFIKAAT
[Regulasie 13(5)]

Verwysingsnommer: _____

IN DIE AANGELEENTHEID TUSSEN

Volle name	
Identiteitsnommer	

Volle name	
Identiteitsnommer	

Volle name	
Identiteitsnommer	

Volle name	
Identiteitsnommer	

EN

Naam van openbare/privaatliggaam	
Naam van inligtingsbeampte	

Ek, _____ In my hoedanigheid as bemiddelaar in die aangeleentheid tussen die bogenoemde partye.

SERTIFISEER HIERBY DAT:

☐ Die aangeleentheid opgelos is en die volgende skikking bereik is:

☐ Die aangeleentheid is nie opgelos nie, en sal terugverwys word na die Inligtingsreguleerder om ingevolge artikel 77C van die Wet hanteer te word.

Geteken te _____ op hede die _____ dag van _____ 20 _____

Bemiddelaar

VORM 13
VERSOEK OM OUDIT
[Regulasie 14(1)]

AAN: Die Inligtingsreguleerder
Posbus 31533
Braamfontein
2017
E-posadres infoereg@justice.gov.za
Telnommer: +27 (0) 10 023 5200

Ek,

Volle name			
Posadres:			
Straatadres:			
E-posadres			
Kontaknommers:	Tel. (B):		Faks:
	Selfoon:		

Versoek hierby ingevolge artikel 77H van die Wet op Bevordering van Toegang tot Inligting, 2000 (Wet Nr. 2 van 2000), dat die Inligtingsreguleerder assessee of die onderstaande openbare of privaatlighaam in die algemeen voldoen aan die bepalings van die Wet vir sover dit die beleid en implementeringsprosedures aangaan.

Naam van openbare/privaatlighaam:			
Posadres:			
Straatadres:			
E-posadres:			
Kontaknommers:	Tel. (B):		Faks:
	Selfoon:		

BESONDERHEDE VAN INLIGTING WAT GEASSESEER MOET WORD

PERSONE GERAAK DEUR DIE TERSAAKLIKE INLIGTINGSPRAKTYK(E)

DIE REDE HOEKOM 'n OUDIT AANGEVRA WORD
SPESIFIEKE ASPEKTE VAN DIE INLIGTING WAT DIE OUDIT MOET HANTEER

Geteken te _____ op hede die _____ dag van _____ 20 _____

Versoeker

VORM 14**KENNISGEWING VAN *VERSOEK/INLIGTINGSREGULEERDER SE EIE BESLUIT OM 'n OUDIT TE DOEN
[Regulation 14(2)]**

Verwysingsnommer: _____

AAN: _____

U word hierby in kennis gestel dat die Inligtingsreguleerder--

☐ 'n versoek ontvang het om 'n oudit te doen☐ uit eie beweging besluit het om 'n oudit te doen,

ingevolge artikel 77H van die Wet op Bevordering van Toegang tot inligting, 2000 (Wet Nr. 2 van 2000).

BESONDERHEDE VAN INLIGTING WAT GEASSESEER STAAN TE WORD

PERSONE GERAAK DEUR DIE TERSAAKLIKE INLIGTINGSPRAKTYK(E)

DIE REDE WAAROM 'n OUDIT AANGEVRA WORD

SPESIFIEKE ASPEKTE VAN DIE INLIGTING WAT DIE OUDIT MOET HANTEER

U word hierby genooi om 'n skriftelike antwoord in te dien, saam met gestaafde bewyse aangaande die
*versoek/die Inligtingsreguleerder se eie inisiatief om 'n oudit te doen op/voor_____.

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder

VORM 15
BESLUIT OOR DIE DOEN VAN N OUDIT
[Regulasie 14(3)]

Verwysingsnommer: _____

AAN: _____

Die Inligtingsreguleerder *het 'n versoek ontvang om 'n oudit te doen/ het uit eie beweging besluit om 'n oudit te doen, ingevolge artikel 77H van die Wet op Bevordering van Toegang tot Inligting, 2000 (Wet Nr. 2 van 2000), en het, na oorweging van al die relevante inligting, besluit om---

☐

met 'n oudit voort te gaan; of

☐

nie met 'n oudit voort te gaan nie.

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder

VORM 16
BESLUIT OOR OUDIT
[Regulasie 14(5)]

Verwysingsnommer: _____

AAN: _____

Die Inligtingsreguleerder *het 'n versoek ontvang om 'n oudit te doen/ het uit eie beweging besluit om 'n oudit te doen, ingevolge artikel 77H van die Wet op Bevordering van Toegang tot Inligting, 2000 (Wet Nr. 2 van 2000), en het, na oorweging van al die relevante inligting, die volgende opinies gevorm;

OPINIES VAN INLIGTINGSREGULEERDER

☐

Die Inligtingsreguleerder wil hierby bevestig dat die Inligtingsreguleerder nie enige verdere stappe in hierdie aangeleentheid wil doen nie.

☐

Die Inligtingsreguleerder wil hierby bevestig dat die Inligtingsreguleerder die volgende stappe in hierdie aangeleentheid wil doen:

Geteken te _____ op hede die _____ dag van _____ 20 _____

Inligtingsreguleerder



**INFORMATION
REGULATOR
(SOUTH AFRICA)**

*Ensuring protection of your personal information
and effective access to information*



GIDS

**VIR DIE GEBRUIK VAN
DIE WET OP BEVORDERING VAN TOEGANG
TOT INLIGTING, WET 2 VAN 2000, SOOS GEWYSIG**

AFRIKAANS

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PAIA GID

VOORWOORD DEUR DIE VOORSITTER

Die Grondwet van die Republiek van Suid-Afrika, 1996¹ ("Grondwet") bepaal dat Suid-Afrika 'n soewereine demokratiese staat is, wat gegrond is op die bevordering van menseregte en 'n verantwoordelike, responsiewe en deursigtige stelsel van bestuur as deel van sy waardes. Voordat Suid-Afrika 'n grondwetlike demokrasie met 'n afdwingbare Handves van Regte geword het, het die regeringstelsel in Suid-Afrika, onder andere, ontaard in 'n geheimsinnige en onresponsiewe kultuur in beide die openbare en private liggame, wat dikwels tot die misbruik van mag en die skendings van menseregte gelei het. Dit is in hierdie verband dat artikel 32(1) van die Handves van Regte in die Grondwet voorsiening maak vir die reg van toegang tot inligting wat deur die staat gehou word; en enige inligting wat deur 'n ander persoon gehou word wat nodig is vir die uitoefening of beskerming van enige regte. Artikel 32(2) van die Grondwet maak op sy beurt voorsiening vir die verordening van nasionale wetgewing om gevolg aan hierdie reg te gee, deur die respektering, beskerming, bevordering en vervulling van hierdie reg.

Die Wet op Bevordering van Toegang tot Inligting, no. 2 van 2000 (Hierna na verwys as "die **PAIA**", of "die Wet" afgewissel), soos gewysig, is die nasionale wetgewing wat verorden is in ooreenstemming met bogenoemde artikel 32(2) van die Grondwet.

Die doel van die **PAIA**-wet, is om 'n kultuur van deursigtigheid en verantwoordbaarheid in openbare en private liggame te vestig. Dit word gedoen deur magtiging te verleen aan die reg van toegang tot inligting en bevorder aktief 'n samelewing waarin die mense van Suid-Afrika effektiewe toegang tot inligting geniet om hul in staat te stel om hul regte meer omvattend uit te oefen en beskerm en ook om Suid-Afrika se doelwitte van 'n oop en deelnemende demokrasie te verwesenlik.

Hierdie **PAIA**-gids is ontwikkel ter vervulling van die Inligtingsreguleerder ("Reguleerder") se verpligting ingevolge artikel 10 van die **PAIA**-wet, wat vereis dat die Reguleerder die bestaande gids, wat opgestel is deur die Suid-Afrikaanse Menseregtekommissie, opdateer en beskikbaar maak.

Hierdie Gids is ontwerp om 'n leidende, gebruikersvriendelike en toeganklike meganisme te wees vir enige persoon wie beoog om enige reg wat in die **PAIA** en die Wet op Beskerming van Persoonlike Inligting, 2000, 2013, vervat word, uit te oefen.



Adv Pansy Tlakula

DIE VOORSITTER VAN DIE INLIGTINGSRE GULEERDER

¹ Grondwet van die Republiek van Suid-Afrika, Wet No.

VRYWARINGSKENNISGEWING

Hierdie Gids verlos nie die gebruiker van die verantwoordelikheid om hul eie vaardigheid en sorg met betrekking tot die vereistes of verpligtinge opgelê deur enige wetgewing nie. Bowendien, voorsien hierdie Gids nie regsadvies nie en is nie bedoel om die **PAIA** of Regulasies wat kragtens die **PAIA** uitgereik is, te vervang nie. Die Reguleerder aanvaar geen verantwoordelikheid vir enige verlies wat gely mag word as gevolg van staat wat gemaak is op hierdie Gids nie.

1. LYS VAN AKRONIEME EN AFKORTINGS

HUB	Hoof-Uitvoerende Beampte
HFB	Hoof-Finansiële Beampte
Grondwet	Grondwet van die Republiek van Suid-Afrika, Wet No. 108 of 1996
AIB	Adjunk-inligtingsbeampte
Doj & CD	Departement van Justisie en Grondwetlike Ontwikkeling
IB	Inligtingsbeampte
Lede	Lede van die Inligtingsreguleerder
Minister	Minister van Justisie en Korrektiewe Dienste
PAIA	Die Wet op Bevordering van Toegang tot Inligting, Wet 2 van 2000, soos gewysig
PAJA	Wet op Bevordering van Administratiewe Geregtigheid, 2000
WOFB	Wet op Bestuur van Openbare Finansies, No. 1 van 1999, soos gewysig
POPI-WET	Beskerming van Persoonlike Inligting, Wet No.4 van 2013
Reguleerder	Inligtingsreguleerder
SAMRK	Die Suid-Afrikaanse Menseregte Kommissie

2. NUTTIGE TERME OP 'N MAKLIK VERSTAANBARE VORM EN WYSE VERDUIDELIK

Term	Beskrywing
Toegangsfooi	Hierdie toegangsfooi word deur die aansoeker aan die liggaam vanwaar U die inligting aanvra, betaal. Dit is om die kostes verbonde aan die opsporing en kopiëring van die rekords wat U benodig te dek. Wat gedebiteer kan word, word deur die regulasie voorgeskryf.
Administrateur	Is 'n staatsorgaan of enige natuurlike of regspersoon wat administratiewe aksie neem.

Term	Beskrywing
Administratiewe aksie	Is enige besluit wat geneem is, of enige versuim om 'n besluit te neem, deur (a) 'n staatsorgaan wanneer: (i) 'n mag uitgeoefen word kragtens die Grondwet of 'n provinsiale grondwet; of (ii) wanneer 'n openbare mag uitgeoefen word of 'n openbare funksie uitgevoer word kragtens enige wetgewing; of (b) deur 'n natuurlike- of regspersoon, anders as 'n staatsorgaan, wanneer 'n openbare mag uitoefen of 'n openbare funksie uitgevoer word ingevolge 'n bemaatligende bepaling. wat die regte van enige persoon nadelig beïnvloed en wat 'n direkte, eksterne regsgevolg het.
Gemagtigde Persoon	Die gemagtigde persoon is die persoon wat 'n versoek namens iemand anders rig, en wie skriftelik behoorlik gemagtig is om dit te doen.
Outomaties Beskikbare Rekords	Dit is die rekords wat 'n openbare of privaat liggaam aan 'n versoeker beskikbaar sal maak sonder dat hulle 'n versoek hoef te rig. Hierdie rekords word in 'n 'vrywillige openbaarmakingskennisgewing' gelys, wat openbaar gemaak moet word.
Betrokkene	Is die persoon tot wie persoonlike inligting betrekking het.
Dae	Tensy aangedui as 'n 'werksdag' in 'n artikel in die PAIA -wet, word 'n dag as 'n kalender dag geag. Om die tydperk te bereken, word die dag waarop die versoek ontvang is, uitgesluit, en elke dag daarna word ingesluit, insluitende naweke en openbare vakansiedae totdat die finale dag getel word. Indien die laaste dag om 'n versoek te reageer op 'n Sondag of 'n openbare vakansiedag val, word die volgende dag as die laaste dag getel.
Vermeende Weiering	Indien geen respons ontvang is op 'n versoek binne die voorgeskryde tyd, word dit as vermeende weiering geag.
Vorm 2	Hierdie vorm word volgens regulasie voorgeskryf en moet gebruik word om toegang tot inligting wat deur 'n openbare of privaat liggaam gehou word, aan te vra.
Vorm 4	Hierdie vorm word volgens regulasie voorgeskryf en moet gebruik word wanneer appèl aangeteken word teen 'n besluit wat deur 'n openbare liggaam geneem is met betrekking tot 'n versoek om toegang tot inligting.

Term	Beskrywing
GIDS	Hierdie gids, gemaak ter nastrewing van Artikel 10 van die PAIA -wet, soos gewysig, het ten doel om 'n persoon te help wat beoog om enige reg uit te oefen wat in die PAIA -wet en die Beskerming van Persoonlike Inligting Wet, 2013 oorweeg is.

Inligtingsbeampte Die Inligtingsbeampte is die persoon wat gemagtig is om **PAIA**-versoeke te hanteer. Die volgende is kategorieë van inligtingsbeamptes per spesifieke liggaam -

Openbare liggaam of staatsorgaan (soos omskryf in artikel 239 van die Grondwet)	Nasionale Departement	Direkteur-generaal of die persoon wat sodanig optree
	Provinsiale Administrasie	Die Hoof van die Departement of die persoon wat sodanig optree.
	Munisipaliteit	Munisipale bestuurder of die persoon sodanig optree
	Openbare instellings gelys in WOFB Bylae 1, 2, 3A en 3B, 3C en 3D	Hoof-uitvoerende beampte of die persoon wat sodanig optree
Privaat liggaam	Natuurlike persoon	Alleeneienaar wat enige bedryf, beroep of professie beoefen, maar slegs in sodanige hoedanigheid en nie in sy persoonlike hoedanigheid nie
	Vennootskap	Enige vennoot van die vennootskap of enige persoon wat behoorlik gemagtig is deur die vennootskap.
	Politieke party	Die leier van die politieke party of enige persoon wat behoorlik gemagtig is deur daardie leier.

Term	Beskrywing		
Inligtingsbeampte		Regspersoon	Hoof- uitvoerende beampte of die besturende direkteur of ekwivalente beampte van die regspersoon of enige persoon wat behoorlik gemagtig is deur daardie beampte. NB: Die Hoof- uitvoerende beampte of ekwivalente beampte mag enige natuurlike persoon as inligtingsbeampte van 'n privaatliggaam magtig.
Adjunk-inligtingsbeampte	Die Adjunk-Inligtingsbeampte is die aangewese persoon of gedelegeer deur die Inligtingsbeampte van 'n openbare liggaam om die versoeker met hul inligtingsversoek te help, en aan wie die inligtingsbeampte PAIA-magte kan deleger. NB: Terwyl slegs 'n openbare liggaam 'n Adjunk-Inligtingsbeampte(s), kragtens artikel 17(1) van die PAIA-wet mag aanstel of deleger, verleen die wet op Beskerming van Persoonlike Inligting, 2013 ("POPI-wet") magtiging aan die privaat liggaam om 'n Adjunk-inligtingsbeampte aan te wys kragtens Artikel 56(1) daarvan.		
Inligtings-reguleerder	Die kantoor van die Inligtingsreguleerder is gevestig, ingevolge artikel 39 van die POPI-wet om voldoening aan beide die POPI- en PAIA-wet af te dwing en te monitor. In hierdie Gids word die Kantoor van die Inligtingsreguleerder of die Inligtingsreguleerder na verwys as die Reguleerder.		
Interne Appèl	'n Interne appèl is die proses om 'n beslissing wat ingevolge 'n PAIA-versoek aan 'n openbare liggaam uit te daag, dit moet voltooi wees voordat 'n wraking aan die Reguleerder of 'n hof met jurisdiksie gerig kan word.		
Privaat Liggaam	'n Privaat liggaam is 'n persoon, maatskappy of ander soort regspersoon wat 'n ambag, besigheid of beroep bestuur, insluitend 'n politieke party.		

Term	Beskrywing
Openbare Liggaam	Desnieteenstaande, met betrekking tot interne appèl, is enige verwysing na 'n "openbare liggaam" verander na "Regering", ten einde enige verwarring te vermy ten opsigte openbare liggame waarop die appèl nie van toepassing is nie.
Rekord	'n Rekord is enige opgetekende inligting, ongeag die vorm, met inbegrip van, byvoorbeeld, geskrewe dokumente, oudio-, digitale- en video opnames. 'n Rekord wat versoek word van 'n openbare of privaat liggaam verwys na 'n rekord wat in daardie liggaam se besit is, ongeag of daardie liggaam die rekord geskep het.
Regulasies	Die PAIA -wet maak voorsiening vir die Minister om regulasies wat die Wet aanvul uit te reik, dit moet in die Staatskoerant gepubliseer word, en kwessies soos die vorms moet gebruik moet word en fooie wat hef kan word vir sekere prosesse, dek.
Relevante Owerheid	Die PAIA -wet gebruik die term 'betrokke owerheid' om die persoon binne 'n Nasionale, Provinsiale en Plaaslike Regering te definieer, aan wie 'n interne appèl gerig moet word, wat algemeen die politieke hoof van die betrokke liggaam is (hierdie funksie kan amptelik gedelegeer word).

3. KONTAKBESONDERHEDE VAN DIE REGULEERDER

Inligtingsbeampte

Hoof-Uitvoerende Beampte:

Kontakpersoon:

Tel No:

E-pos:

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Posadres:

POSBUS 31533
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2017

Telefoon:

010 023 5200

4. DOEL VAN HIERDE PAIA-GIDS

- 4.1 Die doel van hierdie gids is om inligting te verskaf wat benodig word deur enige persoon wat beoog om enige reg uit te oefen wat in die Wet op Bevordering van Toegang tot inligting van 2000 (**PAIA-wet**) en Die Beskerming van Persoonlike Inligting, 2013 ("**POPI-wet**") vervat word. Enige persoon ongeag van burgerskap, kan aansoek doen om toegang tot inligting ingevolge die **PAIA-wet**.
- 4.2 Hierdie gids sal 'n persoon, wat ook na verwys word as 'n betrokkene, help oor hoe om toegang tot sy / haar persoonlike inligting kragtens artikel 23 van die **POPIA-wet** te verkry. Onder die **POPI-wet**, het 'n persoon of betrokkene die reg om -
 - 4.2.1 'n verantwoordelike party te versoek om gratis, te bevestig of die verantwoordelike party persoonlike inligting oor hulle besit of nie, en
 - 4.2.2 om van 'n verantwoordelike party die rekord of 'n beskrywing van die persoonlike inligting oor die betrokkene wat deur die verantwoordelike party gehou word aan te vra, waaronder inligting oor die identiteit van alle derde partye, of kategorieë van derde partye, wat toegang tot die inligting het of reeds gehad het;
 - 4.2.3 'n verantwoordelike party versoek om -
 - (a) persoonlike inligting oor die betrokkene in sy besit of onder sy beheer wat verkeerd, irrelevant, oormatig, verouderd, onvolledig, misleidend of onwettig verkry is te korreger of uit te wis; of
 - (b) om 'n rekord wat persoonlike inligting oor die betrokkene bevat wat die verantwoordelike party nie meer gemagtig is om te behou nie, te vernietig of uit te wis.
- 4.3 Hierdie Gids sal ook enige persoon help oor hoe om aansoek te doen om toegang tot rekords ingevolge die **PAIA-wet** te verkry. Die gids sal Versoekers ook help om:
 - 4.3.1 die **PAIA-wet**, sy voordele en agtergrond te verstaan;
 - 4.3.2 die stapsgewyse proses waardeur 'n versoek gerig word en bykomende wenke wat die proses vergemaklik te leer;
 - 4.3.3 die soorte inligting wat deur die gebruik van die **PAIA-wet** bekom kan word, te leer;
 - 4.3.4 begrip te hê van die proses waardeur 'n versoeker 'n beslissing wat in verband met hul versoek gemaak is, te daag;

4.3.5 vergewissing van die veranderinge wat in die **PAIA**-wet sal plaasvind sodra die **POPIA**-wet ten volle in werking tree.

4.4 Hierdie gids sal ook mense help om te verstaan hoe om die verlening van toegang tot hul rekords te daag of hoe om deel te neem aan die proses om toegang tot hul rekords te verkry.

5. OOR PAIA

5.1 Die reg op toegang tot inligting is "een van die mees effektiewe wyses waarop die grondwetlike waardes van deursigtigheid en openheid, deelname en aanspreeklikheid gehandhaaf word".² Die bogenoemde grondwetlike waardes kan nie bereik word indien die regering 'n monopolie het op die inligting wat sy aksies en besluite dryf, het nie. Dus, is toegang tot inligting nie net fundamenteel tot 'n behoorlik funksionerende, deelnemende demokrasie nie, maar dit verhoog ook die openbare vertroue in die regering en verskerp die regmatigheid daarvan. Ander voordele van die reg op toegang tot inligting is byvoorbeeld dat dit bedrog en korrupsie, onsekerheid en ander onbehoorlike regeringsoptredes ontmoedig.

5.2 Toe die Suid-Afrikaanse Grondwet in die tydperk na die val van Apartheid in die 1990's opgestel is, het verskillende organisasies en individue veldtogte geloods vir die insluiting vir 'n reg van toegang tot inligting. Daar is gehoop dat die insluiting van hierdie reg in die Handves van Regte sou verseker dat gruweldade soos Apartheid nooit weer sou kon plaasvind nie, aangesien die staat en privaat maatskappye verplig sou wees om op 'n verantwoordbare en deursigtige wyse op te tree deur die voorsiening van toegang tot inligting, en sou dus nie kon wegkruip agter die dekmantel van geheimhouding nie. Dit was beskou as 'n noodsaaklike stap om te help om 'n kultuur van regverdiging te skep, wat sou lei tot regverdiger verhoudings tussen mense, en diegene in gesagsposisies. In een van die vroegste sake wat handel oor hoe om die vraag te hanteer of 'n beskuldigde geregtig is op toegang tot al die inligting vervat in die polisie akte, het³ Jones J die belangrikheid daarvan in hierdie terme erken:

“Die doel ... is om die ewigdurendheid van die ou administrasiestelsel uit te sluit, 'n stelsel waarin dit moontlik was vir die regering aanspreeklikheid te ontsnap deur te weier om inligting te openbaar, selfs al het dit betrekking gehad op die uitoefening of beskerming van die regte van die individu. Dit is die misstand wat dit ontwerp is om te verhoed [...] Aantoonbare eerlikheid en openheid bevorder openbare vertroue in die administrasie van openbare sake oor die algemeen. Hierdie vertroue is een van die kenmerke van die demokraties regerende samelewing waarvoor die Grondwet hom beywer”.

² Hoexter Administratiewe Wet 94

³ 1994 (1) SACR 635 (E)

- 5.3 Artikel 32 van die Grondwet verskans die reg van toegang tot inligting wat gehou word deur beide openbare en private liggame. Artikel 32 bepaal ook dat wetgewing verorden moet word om uitvoering te gee aan die reg van toegang tot inligting deur oor die maniere waarop inligting verkry van openbare en privaat liggame kan verkry word, en deur die verskaffing van gronde waarop 'n openbare en private liggaam kan weier om toegang tot inligting.
- 5.4 Die **PAIA**-wet is uitgevaardig in reaksie op die bogenoemde grondwetlike mandaat, en groot deel daarvan is in Maart 2001 in werking gestel. Die aanhef erken die "geheimsinnige en onresponsiewe kultuur" van die pre-demokratiese era, en beweer dat een van die oogmerke van die **PAIA**-wet is om "'n kultuur van deursigtigheid en verantwoordbaarheid in openbare en privaat liggame te kweek."
- 5.5 Die **PAIA**-wet het ten doel uitvoering te verleen aan 'n persoon se regte op toegang tot inligting en aanspreeklikheid. Dit is ontwerp om mense te bemagtig om die wet te gebruik, en op die wyse help dit om toegang tot inligting op verskillende wyses te versoek. 'n Mens hoef nie 'n prokureur aan te stel om 'n versoek om toegang tot inligting ingevolge die **PAIA**-wet te rig nie.

6. DIE OOGMERKE VAN DIE PAIA-WET

- 6.1 Die oogmerke van die **PAIA**-wet is nie om die grondwetlike reg te vervang nie, maar is om die regte in artikel 32 ten uitvoering te bring, onderhewig aan verdedigbare verjaringstermyne, en op so 'n wyse al die ander regte vervat in die Grondwet te help balanseer. Dit beoog om 'n kultuur van menseregte en maatskaplike geregtigheid vir die mense, die openbare sektor en die private sektor te bevorder. Die **PAIA**-wet beoog om deursigtigheid, verantwoordingspligtigheid en doeltreffende bestuur van alle instansies (beide openbaar en privaat) te bevorder deur die bemagtiging van mense hul regte tot toegang tot inligting te verstaan, daarvolgens op te tree en om besluite wat hulle raak te ondersoek en oorweeg.
- 6.2 Die reg van toegang tot inligting is 'n baie kragtige grondwetlike reg, omdat dit mense help om hul ander regte te verwesenlik. 'n Persoon kan dit gebruik om die lewering van regeringsdienste te help monitor en assessee, of om toegang te verkry tot historiese rekords wat van belang kan wees.
- 6.3 Die oogmerke van die **PAIA**-wet is -
- 6.3.1 om grondwetlike regte ten uitvoering te bring om
 - 6.3.1.1 enige inligting wat deur die staat gehou word; en
 - 6.3.1.2 enige inligting wat deur 'n ander persoon gehou word en wat nodig is vir die uitoefening of beskerming van enige regte.

- Die vereiste met betrekking tot die beskerming van regte is beperk tot inligting wat in private hande geberg word. Private liggame is dus onderhewig aan 'n lakser deursigtigheidstandaard as openbare liggame. Met ander woorde, die privaat sektor is daarop geregtig om die inligting vir homself te hou, tensy daardie inligting benodig word vir die beskerming van die regte.
- Die **PAIA**-wet erken, kragtens artikel 8(1) daarvan dat 'n liggaam "openbaar" of "privaat" mag wees vir die doeleindes van die Wet, afhangend van of die rekord ter sprake "verband hou met die uitoefening van 'n mag of die verrigting van 'n funksie as 'n openbare liggaam of privaatliggaam."

6.3.2 om uitvoering te gee aan daardie reg -

6.3.2.1 onderhewig aan verdedigbare verjaringstermyne, met inbegrip van, maar nie beperk tot, die verjaringstermyne wat gemik is op die regverdige beskerming van privaatheid, kommersiële vertroulikheid en doeltreffende, effektiewe en goeie regering; en

6.3.2.2 op 'n wyse wat daardie reg met enige ander regte, insluitend die regte vervat in die Handves van Regte in Hoofstuk 2 van die Grondwet balanseer;

6.3.3 uitvoering te gee aan die grondwetlike verpligtinge van die staat om 'n menseregtekultuur en sosiale geregtigheid te bevorder, deur openbare liggame by die omskrywing van 'aansoeker' in te sluit, en hulle onder meer toe te laat om toegang tot inligting van privaatliggame te verkry na voldoening aan die vier vereistes in hierdie Wet, insluitend 'n bykomende verpligting vir sekere openbare liggame in sekere gevalle om in die openbare belang op te tree;

6.3.4 om vrywillige en verpligte meganismes of prosedures in te stel om daardie reg uit te voer op 'n wyse wat persone in staat stel om so vinnig, goedkoop en moeiteeloos as redelikerwys toegang tot rekords van openbare en private liggame te verkry; en

6.3.5 om oor die algemeen deursigtigheid, aanspreeklikheid en effektiewe bestuur van alle openbare en private liggame te bevorder deur, insluitend maar nie beperk nie tot, die bemaatiging en opvoeding van almal -

6.3.5.1 om hul regte met betrekking tot hierdie Wet te verstaan ten einde hul regte met betrekking tot openbare en private liggame uit te oefen;

6.3.5.2 om die funksies en werking van openbare liggame te verstaan; en

- 6.3.5.3 om besluitneming deur openbare liggame wat hul regte beïnvloed, effektief te ondersoek en daaraan deel te neem.

6.4 Die Bevordering van Toegang tot Inligting Wysigingswet, 2019

- 6.4.1 In die saak van ***My Vote Counts NPC v Minister of Justice and Correctional Services and Another [2018] ZACC 17***, het die Konstitusionele Hof voorgehou dat die Staat 'n verpligting het wat voortspruit uit lees van artikels 32, 19 en 7(2) van die Grondwet en is onderhewig daaraan om als redelik moontlik te doen om die reg om toegang tot inligting en die reg om te stem verwesenlikbaar te maak. Die meerderheid het verder voorgehou dat dit so is omdat die reg om te stem 'n ingeligte keuse moet wees, en daar 'n kern verband is tussen die behoorlike uitoefening van die reg om te stem en die reg om toegang tot inligting is. En "sonder toegang tot inligting, word die vermoë van burgers om verantwoordelike politieke besluite te neem en op 'n betekenisvolle wyse in die samelewing deel te neem, ondermyn. Die Konstitusionele Hof het die bevel van grondwetlike ongeldigheid bevestig en die Parlement beveel om die **PAIA**-wet te wysig en enige ander stappe wat dit nodig ag te neem om te voorsien vir die beskerming van rekords en om redelikerwyse toegang tot inligting oor die private befondsing van politieke party en onafhanklike kandidate binne 'n periode van 18 maande te fasiliteer.
- 6.4.2 In ooreenstemming met die bogenoemde beslissing van die Konstitusionele Hof, het die President op 3 Junie 2019, die Wet op Bevordering van Toegang tot Inligting, 2019, (**PAIA**-wysigingswet 2019), bekragtig.⁴ Die **PAIA**-wysigingswet 2019, sluit 'n politieke party in die definisie van 'n privaat liggaam in, wat uiteindelik beteken dat die leier van 'n politieke party of enige persoon wat behoorlik gemagtig is deur daardie leier, 'n Inligtingsbeampte of hoof is. Die **PAIA**-wysigingswet 2019 verleen nou ook die reg om toegang tot enige rekords van die politieke party.
- 6.4.3 Die gewysigde Wet maak voorsiening vir inligting oor die privaat befondsing van politieke partye en onafhanklike kandidate om genotuleer, bewaar en beskikbaar gemaak te word.
- 6.4.4 Kragtens Artikel 52A van die **PAIA**-wysigingswet 2013, moet die hoof van 'n politieke party rekords skep en hou van enige skenkings wat die voorgeskrewe drempel van **R100 000.00** oorskry, wat aan die politieke party in enige gegewe finansiële jaar gemaak is asook die identiteite van die persone of entiteite wat sulke skenkings gemaak het. Die hoof van 'n politieke party word ook verplig om dié rekords op 'n kwartaallikse basis beskikbaar te maak, soos voorgeskryf; en die rekords vir 'n periode van minstens vyf jaar nadat die betrokke rekords geskep is, te hou.

⁴ Bevordering van Toegang tot Inligting Wysigingswet, No. 31 van 2019

6.4.5 Dit beteken dat terwyl die Politieke Partye Befondsingswet voorsiening maak vir die verpligte bekendmaking aan die Verkiesingskommissie, verleen die **PAIA**-wysigingswet die reg van toegang tot rekords, tot die rekords van enige skenking aan die politieke party wat **R100 000.00** oorskry, aan enige persoon.

6.5 Ander wetgewing wat die reg van toegang tot inligting beskerm

Die **PAIA**-wet bestaan binne 'n hele regsomgewing, waar dit ontwikkel is om 'n "kultuur van verantwoording" te skep. Ter herkenning hiervan, stel die **PAIA**-wet dat enige ander wet wat dit moontlik maak om die inligting om 'n makliker wyse te bekom, eerder gebruik mag word.⁵

6.5.1 Maatskappyewet 71 van 2008

6.5.1.1 Artikel 26(1) van die Maatskappyewet bied aan 'n persoon wat 'n voordelige belang het in of sekuriteite wat deur 'n winsmaatskappy uitgereik word, of wat 'n lid is van 'n maatskappy sonder winsoogmerk, en het die reg om dit te inspekteer en te kopieer, sonder enige heffing vir sodanige inspeksie of teen betaling van nie meer as die voorgeskrewe maksimum koste vir sodanige eksemplaar nie, die inligting vervat in die rekords van die maatskappy.

6.5.1.2 Kragtens Artikel 26(7)(b) van die Maatskappyewet, is "die regte om toegang tot inligting wat in hierdie artikel uiteengesit is, ter aanvulling en nie as vervanging van enige regte wat 'n persoon mag hê tot toegang tot inligting nie, kragtens die Bevordering van Toegang tot Inligting Wet, 2000 (Wet No. 2 van 2000)".

6.5.2 Die Wet op die Befondsing van Politieke Partye, 2018 (Wet No.6 van die 2018)

6.5.2.1 Die Wet op die Befondsing van Politieke Partye stel 'n streng reguleringsraamwerk in vir die privaat befondsing van alle geregistreerde politieke partye, hetsy in die nasionale en provinsiale wetgewers verteenwoordig word of nie. Dit sluit in die stel van perke vir die bron, grootte en gebruik van geskenkte fondse deur politieke partye.

6.5.2.2 Om deursigtigheid en aanspreeklikheid te verseker, moet politieke partye elke drie maande (sowel as voor die algemene verkiesing) alle donasies wat bo die openbaarmakingsdrempel van **R100 000.00** ontvang word, bekend maak.

⁵ Artikel 2 (1) van die PAIA-wet

- 6.5.2.3 Enige persoon of organisasie wat 'n skenking maak aan 'n politieke party wat **R100 000.00** per jaar afsonderlik of kumulatief oorskry, moet die skenking binne 30 dae na die skenking aan die verkiesingskommissie rapporteer, of binne 30 dae nadat die kumulatiewe skenkings meer as **R100 000.00** was.
- 6.5.2.4 Laastens lê die Wet op die Befondsing van Politieke Party 'n verpligting op die Verkiesingskommissie om elke drie maande die donasies wat deur politieke partye gerapporteer is, bekend te maak en jaarliks aan die Parlement verslag te doen oor alle donasies wat gedurende die jaar aan politieke partye gemaak is.
- 6.5.3 Wet op Beskerming van Persoonlike Inligting, 2013(Wet No.4 van 2013)
- 6.5.3.1 Artikel 23 van **POPI**-wet bied aan die betrokke die reg op toegang tot persoonlike inligting wat deur die verantwoordelike party gehou word, insluitend inligting oor die identiteit van alle derde partye, of kategorieë van derde partye, wat toegang tot die inligting het, of gehad het.
- 6.5.3.2 Dit beteken dat hoewel toegang tot 'n rekord wat persoonlike inligting oor 'n aansoeker bevat, uitgesluit is van **PAIA**-wet ingevolge Artikel 11 (2) daarvan, kan die betrokke versoek om -
- 6.5.3.2.1 toegang tot sy/haar persoonlike inligting te verkry; en/of
- 6.5.3.2.2 die identiteit van alle derde partye, en / of kategorieë van derde partye, toegang tot die inligting het of gehad het.
- 6.5.3.2.3 regstelling of verwydering van persoonlike inligting oor die betrokke in sy besit of onder sy beheer wat onakkuraat, irrelevant, buitensporig, verouderd, onvolledig, misleidend of onwettig verkry is;
- 6.5.3.2.4 die rekord van sy/haar persoonlike inligting wat die verantwoordbare party nie meer gemagtig is om te hou nie, vernietig of uitgewis moet word.
- 6.5.3.3 'n Verantwoordelike party kan weier om enige persoonlike inligting bekend te maak, in ooreenstemming met die gronde vir die weiering van toegang tot rekords, soos uiteengesit in paragraaf 19.4 hieronder.

6.5.4 Wet op Bevordering van Administratiewe Geregtigheid 3 van 2000

- 6.5.4.1 'n Ander belangrike wet wat u moet onthou wanneer u toegang tot inligting oorweeg, is die Wet op die Bevordering van Administratiewe Geregtigheid (**PAJA**). Die **PAJA**-wet gee uitvoering aan die reg tot administratiewe optrede wat wettig, redelik en prosedureel billik is en aan die reg tot skriftelike redes vir administratiewe optrede soos oorweeg in artikel 33 (2) van die Grondwet.⁶
- 6.5.4.2 Ingevolge artikel 5 (1) van die **PAJA**-wet kan enigiemand wie se regte wesenlik en nadelig beïnvloed is deur administratiewe optrede en wat nie redes vir die aksie gegee is nie, binne 90 dae na die datum waarop daardie persoon van die optrede of redelikerwys sou verwag word dat hy van die optrede bewus geword het, die betrokke administrateur versoek om skriftelike redes vir die aksie te verskaf. Die administrateur aan wie die versoek gerig is, moet daardie persoon binne 90 dae na ontvangs van die versoek voldoende **skriftelike rede gee vir die administratiewe optrede**.

7. VESTIGING VAN DIE INLIGTINGSREGULEERDER

- 7.1 Om die bevordering en verbetering van die **PAIA**-doelstellings te verseker, wat die reg op toegang tot inligting moet bewerkstellig op so 'n wyse dat dit mense in staat stel om so vinnig en goedkoop as redelikerwys toegang tot rekords van openbare en private liggame te verkry, is die Inligtingsreguleerder ("Die Reguleerder") ingestel ingevolge artikel 39 van **POPI**-wet.
- 7.2 Om te verseker dat ongekompliseerde en goedkoop administratiewe prosedures volg wanneer 'n versoek om toegang tot inligting gerig word, moet klagtes by die Reguleerder en hofaansoeke die uitsondering eerder as die reël wees.
- 7.3 Die **POPI**-wet wysig die rol van die SAMRK in verband met die **PAIA**-mandaat. Met ingang van 30 Junie 2021 sal al die funksies van die SAMRK, soos uiteengesit in **PAIA**-wet, hanteer word deur die Reguleerder, wat ook addisionele handhawingsbevoegdhede het. Die **POPI**-wet wysig die rol van die SAMRK met betrekking tot die **PAIA**-wet se mandaat.
- 7.4 Terwyl die SAMRK steeds sy breër grondwetlike verpligtinge sal handhaaf om die regte soos vervat in die Handves van Menseregte te bevorder, te beskerm en te monitor, sal die SAMRK en die Reguleerder nou saamwerk.

⁶ Elkeen wie se regte nadelig geraak is deur administratiewe optrede het die reg tot die verskaffing van skriftelike redes.

8. DIE ROL VAN DIE INLIGTINGSREGULEERDER

- 8.1 Die Reguleerder het 'n baie belangrike rol ten opsigte van die **PAIA**-wet. Die Reguleerder het 'n mandaat van die **PAIA**-wet in Deel 4, Hoofstuk 1A en deel 5 en ander afdelings om:
 - 8.1.1 Die reg van toegang tot inligting te bevorder en om die publiek te help met die gebruik van die **PAIA**-wet waar redelikerwys moontlik is om dit te doen.
 - 8.1.2 Die **PAIA**-wet te monitor en die implementering daarvan te bevorder in openbare en privaat liggame (wat ook die bevordering van doeltreffende wyses om inligting tydig beskikbaar te maak, insluit)
 - 8.1.3 Aanbevelings te maak om die **PAIA**-wet te versterk, en
 - 8.1.4 jaarliks aan die Parlement verslag te doen.
- 8.2 Artikel 77C (1) en (2) van die **PAIA**-wet maak voorsiening vir die volgende magte, pligte en funksies van die reguleerder, om -
 - 8.2.1 'n klagte wat op die voorgeskrewe wyse aan die Reguleerder gerig is, te ondersoek;
 - 8.2.2 die klag na die Afdwingingskomitee, ingestel ingevolge artikel 50 van die **POPI**-wet, te verwys; of
 - 8.2.3 in ooreenstemming met artikel 77D te beslis om geen aksie op die klagte of te neem nie, of na gelang van die geval, geen verdere optrede verlang ten opsigte van die klagte; en
 - 8.2.4 waar toepaslik, as bemiddelaar op te tree met betrekking tot sodanige klagte op die voorgeskrewe wyse.
- 8.3 Die Reguleerder kan, ingevolge artikel 77H (1) van die **PAIA**-wet, en op eie inisiatief, of op versoek van of namens 'n inligtingsbeampte of hoof van 'n private liggaam of enige ander persoon, 'n beoordeling doen, hetsy 'n openbare of private liggaam voldoen gewoonlik aan die bepalinge van **PAIA**, vir sover dit sy beleid en implementeringsprosedures betref.
- 8.4 Die Reguleerder is gemagtig om, ingevolge artikel 77F van **PAIA**, sy beste poging aan te wend om 'n klag te besleg, indien dit blyk uit die klag, of enige skriftelike antwoord wat daarop gerig is dat dit moontlik is om die klag te besleg. Dit beteken dat die Reguleerder slegs kan probeer om partye te help om hul geskille te besleg, indien daar 'n klag by die Reguleerder ingedien word, tensy hy op eie inisiatief besluit het om 'n beoordeling uit te voer, soos uiteengesit in paragraaf 8.3 hierbo.

9. VERSOEK OM 'N REKORD RIG

Verwys asseblief na die stapsgewyse prosesvloedidiagram in Paragraaf 27 hieronder oor hoe om aansoek te doen om toegang tot die rekords te verkry.

9.1 Om mee te begin: **Die PAIA-handleiding**

- 9.1.1 Alhoewel hierdie gids gepubliseer is om die publiek uit alle vlakke van die samelewing te help om hul grondwetlike reg op toegang tot inligting te handhaaf, is daar ander bronne van inligting wat 'n persoon ook kan help om 'n versoek tot toegang tot rekords te rig. **PAIA** vereis dat alle openbare liggame en private liggame 'n **PAIA**-handleiding opstel en beskikbaar stel.⁷
- 9.1.2 Voordat iemand stappe doen om toegang te verkry tot die inligting of rekords van 'n bepaalde liggaam, is die **PAIA**-gids die eerste instrument om te lees.
- 9.1.3 Die **PAIA**-gids is op sy mees basiese manier nuttig vir iemand om:
 - 9.1.3.1 die aard van die rekords wat reeds beskikbaar is, na te gaan sonder om 'n formele **PAIA**-versoek in te dien;
 - 9.1.3.2 'n begrip hê van hoe u 'n versoek kan rig om toegang tot inligting wat deur 'n bepaalde liggaam bewaar word;
 - 9.1.3.3 toegang te verkry tot alle relevante kontakbesonderhede van die persoon wat die publiek sal help met die rekords waarvoor iemand toegang wil verkry;
 - 9.1.3.4 te weet wat al die beskikbare middele by die instansie waartoe toegang tot die rekords gevra word is, voordat u die Reguleerder of die Howe nader;
 - 9.1.3.5 die beskrywing van die dienste vanaf die liggaam wat aan lede van die publiek beskikbaar is, te ken en hoe om toegang tot daardie dienste te verkry;
 - 9.1.3.6 weet of die liggaam persoonlike inligting sal verwerk, die doel van die verwerking van persoonlike inligting en die beskrywing van die kategorieë van die betrokke en van die inligting of kategorieë van inligting wat daarmee verband hou;
 - 9.1.3.7 weet of die liggaam beplan het om 'n persoon se persoonlike inligting oor te dra of te verwerk buite die Republiek van Suid-Afrika; en

⁷ Artikel 14 en artikel 51 van die PAIA-wet

- 9.1.3.8 weet of die liggaam toepaslike veiligheidsmaatreëls het om die vertroulikheid, integriteit en beskikbaarheid van die inligting wat verwerk gaan word, te verseker.

9.2 Waar om PAIA-Gids te vind?

9.2.1 PAIA-GIDS van openbare liggame

- 9.2.1.1 Alle openbare liggame moet die **PAIA**-gids gereedlik beskikbaar maak in ten minste drie amptelike tale.⁸
- 9.2.1.2 Op die aller minste word hulle genoop om 'n kopie van 'n **PAIA**-gids vrylik beskikbaar te stel, tensy 'n gedrukte kopie aangevra word -
- 9.2.1.2.1 op die webtuiste van die openbare liggaam;
- 9.2.1.2.2 by die hoof kantoor van die openbare liggaam vir openbare besigtiging gedurende normale besigheidsure;
- 9.2.1.2.3 indien 'n persoon 'n harde kopie wil hê, moet die openbare liggaam 'n afskrif maak, maar dit mag 'n fooi hef vir die lewering van gegewe afskrif; en
- 9.2.1.3.4 op versoek aan die Reguleerder.

9.2.2 PAIA-gids van privaatliggame

- 9.2.2.1 Privaat liggame word ook verplig om 'n **PAIA**-gids saam te stel, maar daar is geen vereiste om dit in meer as een taal of in 'n spesifieke taal saam te stel nie, hoewel dit aanbeveel word dat die **PAIA**-gids van privaat liggame ten minste in Engels moet wees.⁹ Indien 'n spesifieke liggaam dienste lewer aan 'n meerderheid mense wat nie formele onderrig het nie, beveel die Reguleerder aand dat die gids van daardie liggaam ook in enige ander amptelike taal beskikbaar moet wees.
- 9.2.2.2 Op die aller minste word privaat liggame verplig om 'n kopie van 'n **PAIA**-gids vrylik beskikbaar te stel, tensy 'n gedrukte kopie aangevra word - ¹⁰
- 9.2.2.2.1 op die webtuiste van die privaat liggaam;
- 9.2.2.2.2 by die hoof sakeperseel van die privaat liggaam vir openbare besigtiging gedurende normale werksure;

⁸ Artikel 14 (1) van die PAIA-wet

⁹ Kragtens artikel 51 van die PAIA-wet

¹⁰ Artikel 51(3) van die PAIA-wet

9.2.2.2.3 indien 'n persoon 'n harde kopie verlang, moet die privaat liggaam 'n afskrif maak, maar mag aandrang op betaling van 'n billike fooi vir die voorsiening van die harde kopie en

9.2.2.2.4 op versoek aan die Reguleerder.

9.2.3 Die Minister van Justisie en Korrektiewe Dienste het die magte om sekere privaat liggame of kategorieë van privaat liggame vry te stel van die verpligting om 'n gids saam te stel.¹¹ Tans, en tot en met **31 Desember 2021**, het die Minister alle privaat liggame vrygestel, met die uitsondering van enige maatskappy wat¹² -

- (a) nie 'n privaat maatskappy, soos omskryf in Artikel 1 van die Maatskappywet, 2008 (Wet No 71 van 2008) is nie; en
- (b) 'n privaat maatskappy is soos omskryf in Artikel 1 van die Maatskappywet, 2008 (Wet No 71 van 2008) wat handel in enige van die sektore genoem in kolom 1 van die skedule tot hierdie kennisgewing en -
 - (i) 50 of meer werknemers in diens het; of
 - (ii) 'n totale jaarlikse omset het wat gelykstaande of oorskrydend is aan die toepaslike bedrag genoem in kolom 2 van die onderstaande tabel.

van die samestelling van die gids oorweeg in Artikel 51(1) van die eersgenoemde Wet vir 'n periode van ses (6) maande vanaf **1 Julie 2021** tot **31 Desember 2021**: -

Sektor	Jaarlikse omset
Landbou	R6 miljoen
Mynbou en Steengroefwerk	R22.5 miljoen
Nywerheid	R30 miljoen
Elektrisiteit, gas en water	R30 miljoen
Konstruksie	R15 miljoen
Handel en Motorhandel en hersteldienste	R45 miljoen
Groothandel, kommersiële agente en verwante dienste	R75 miljoen
Spyseniering, Akkommodasie en ander handel	R15 miljoen
Vervoer, opberging en kommunikasie	R30 miljoen
Finansiële- en Skakeldienste	R30 miljoen
Gemeenskaps-, spesiale en persoonlike dienste	R15 miljoen

¹¹ Artikel 51(4) van die PAIA-wet

¹² Staatskoerant No: 39504, 11 Desember 2015

9.2.4 Vanweë die belangrikheid van die wetlike vereiste vir die samestelling van die **PAIA**-handleiding, veral die wysiging van artikel 51 van die **PAIA**-wet (wat op 30 Junie 2021 in werking tree), ingevolge waarvan die omvang van die inligting wat die gids moet dek, verbreed is om aangeleenthede rakende die **POPI**-wet in te sluit, sal privaat liggame nie meer vrygestel word van die verpligting om die **PAIA**-gids saam te stel nie¹³. Daarom word elke privaat en openbare liggaam verplig om vanaf **1 Januarie 2022** hul **PAIA**-handleiding beskikbaar te hê, soos voorgeskryf in paragraaf 9.2.2.2 hierbo.

9.2.5 Die vrystelling van privaat maatskappye van die verpligting om die **PAIA**-handleiding saam te stel, stel die privaat ondernemings nie vry van nakoming van die **PAIA**-wet nie. Dit beteken dat enige persoon steeds 'n versoek om toegang tot inligting aan die vrygestelde privaat liggaam kan indien. Die vrystelling beteken net dat daardie private ondernemings nie 'n **PAIA**-gids hoef op te stel nie.

9.2.6 Onthou ook dat nie alle privaat liggame maatskappye is nie, want die omskrywing van privaat liggaam sluit natuurlike persoon, eenmansaak en vennootskap in. Dit kan egter steeds die moeite werd wees om hul webtuiste na te gaan, aangesien sommige maatskappye 'n **PAIA**-handleiding opstel ongeag die aantal werknemers of hul jaarlikse omset.

9.3 Vrywillige openbaarmaking en outomatiese beskikbaarheid van sekere rekords

9.3.1 Outomaties beskikbare rekords is rekords wat 'n openbare of privaat liggaam sal verskaf sonder dat die versoeker 'n **PAIA**-versoek hoef in te dien (met ander woorde, iemand kan dit net aanvra sonder om die **PAIA**-vorm 2 in te vul).

9.3.2 Die inligtingsbeampte van 'n openbare liggaam moet ingevolge artikel 15 (1) van **PAIA** 'n lys of kategorieë rekords beskikbaar stel wat outomaties beskikbaar is, soos voorgeskryf in paragraaf 9.3.4 hieronder.

9.3.3 Outomaties beskikbare rekords van 'n privaat liggaam kan ook beskikbaar gestel word ingevolge artikel 52 (1) van die **PAIA**-wet, maar op 'n vrywillige basis, ooreenkomstig met paragraaf 9.3.4 hieronder.

9.3.4 'n Beskrywing van die kategorieë van rekords wat outomaties beskikbaar gestel moet word -

- (a) aan die Inligtingsreguleerder;
- (b) op die webwerf van die liggaam; en
- (c) vir inspeksie by die kantore van die betrokke liggaam gedurende normale kantoorure.

¹³ Artikel 110 van die POPI-wet

- 9.3.5 Let asseblief daarop dat die reguleerder die beskrywing van outomaties beskikbare rekords van 'n openbare liggaam op sy webtuiste sal laai.
- 9.3.6 Hierdie lys sluit die rekords in wat nodig mag wees om beskikbaar gestel te word deur ander wette, en enige ander rekords wat daardie liggaam kies om in te sluit. Om die formaliteit van die nakoming van die **PAIA**-versoekproses te vermy, word 'n versoeker aangeraai om die **PAIA**-handleiding van die betrokke openbare of privaat liggaam na te gaan. Indien 'n persoon toegang wil verkry tot rekords wat binne die liggaam se lys van outomaties beskikbare rekords val, kan die persoon bloot toegang daartoe versoek sonder om **PAIA**-vorm 2 in te vul.
- 9.3.7 Die Wet op die Befondsing van Politieke Partye 6 van 2018 stel 'n paar veranderinge bekend deur middel van die **PAIA**-wet, waarvolgens die hoofde van politieke partye rekords van private skenkings moet opneem en bewaar, wat openbaar moet word sonder dat iemand 'n **PAIA**-versoek hoef in te dien.

10. KONTAKBESONDERHEDE VAN INLIGTINGSBEAMPTES

- 10.1 Hoewel dit vereis word dat die kontakbesonderhede van die inligtingsbeamptes van elke openbare liggaam in elke telefoongids gepubliseer moet word, kragtens artikel 16 van die **PAIA**-wet, het die Reguleerder spesifieke kontakbesonderhede van alle Inligtingsbeamptes (insluitend adjunkinligtingsbeamptes, wat ingevolge artikel 17 en 56 van die **PAIA**- en **POPI**-wet onderskeidelik, aangestel is) ingevolge artikel 55 (2) van die **POPI**-wet by hom geregistreer is.
- 10.2 Hoewel die verkryging van die regte kontakbesonderhede dikwels 'n baie uitdagende deel kan wees van die rig van 'n **PAIA**-versoek, aangesien rolle in die openbare sektor gereeld verander en die **PAIA**-handleiding nie noodwendig op datum is nie, moet die eerste plek om kontakbesonderhede te vind die **PAIA**-handleiding van die liggaam wees. As 'n aanvrager egter nie die gids kan vind nie, kan dit ook help om die skakelbord van die liggaam te skakel om die tersaaklike besonderhede aan te vra.
- 10.3 Vir munisipaliteite, plaas die Suid-Afrikaanse Vereniging vir Plaaslike Regering (**SALGA**) die kontakbesonderhede vir alle munisipaliteite by hierdie skakel:
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Regeringskommunikasie voorsien nasionale en provinsiale kontakte sowel as die besonderhede van ondernemings wat in staatsbesit is onder in hierdie skakel:
<https://www.gov.za/about-government/contact-directory>. Onthou altyd dat die definisie van die Inligtingsbeampte help om te identifiseer wie se kontakbesonderhede nodig is om die inligtingsbeampte te identifiseer.

11. PROSES OM 'N VERSOEK OM INLIGTING TE RIG

11.1 Die versoekvorms

- 11.1.1 'n versoek om toegang tot inligting kan aan beide openbare en private liggame gerig word.
- 11.1.2 Die **PAIA**-wet vereis dat indien u so 'n versoek wil rig, moet u so 'n versoek op die voorgeskrewe vorm rig (hierdie vorms word voorgeskryf deur Regulasies). Daar is twee vorms wat gebruik kan word in die uitvoering tot reg op toegang tot inligting:

Vorm 2	Vorm 4
Hierdie vorm kan slegs gebruik word indien u 'n versoek om toegang tot die rekords van 'n openbare of privaat liggaam wil rig.	Hierdie vorm kan slegs gebruik word indien u 'n interne appèl wil aanteken teen die beslissings van die Inligtingsbeamptes of die Adjunk-inligtingsbeamptes of die van 'n nasionale, provinsiale of plaaslike sfeer van regering tot wie 'n interne appèl van toepassing is.

- 11.1.3 Hierdie vorms kan verkry word op die reguleerder se webtuiste by <https://www.justice.gov.za/infoereg/>

11.2 Die bepaling om vas te stel of 'n versoek betrekking het tot inligting wat gehou word deur 'n private of openbare liggaam

- 11.2.1 'n Openbare liggaam verrig 'n openbare funksie, soos die voorsiening van elektrisiteit of water aan die publiek. Dus, is 'n openbare liggaam nie net 'n nasionale, provinsiale of plaaslike regeringsdepartement nie – dit sou ook ondernemings in staatsbesit of staatsinstellings soos die Reguleerder, Eskom, of PRASA insluit. Daar moet egter 'n onderskeid gemaak word ten opsigte van 'n openbare liggaam vir die doel van interne appèl, wat slegs verwys na die nasionale, provinsiale of plaaslike regering.

- 11.2.2 'n private liggaam verrig 'n private funksie. So 'n liggaam (wat 'n persoon kan wees) handel 'n bedryf, beroep of professie. Dit is baie belangrik om daarop te let dat wanneer 'n **PAIA**-versoek by 'n privaat liggaam ingedien word, moet 'n persoon staaf watter reg hy beskerm of uitoefen deur om hierdie inligting aan te vra. Met betrekking tot enige inligting wat deur 'n ander persoon gehou word, het Streicher JA die posisie soos volg opgesom, in die **Kaapse Metropolitaanse Raad v Metro Inspection Services (Western Cape) CC en Andere**¹⁴

¹⁴ 2001 (3) SA 1013 (SCA) par 28 by 1026f – G.

“Inligting kan slegs vereis word vir die uitoefening of beskerming van 'n reg as dit van hulp sal wees in die uitoefening of beskerming van 'n reg. Dit volg dat, ten einde 'n saak om toegang tot inligting ingevolge artikel 32 te stel, moet 'n aansoeker staaf wat die reg is wat hy wil uit te oefen of beskerm, wat die inligting wat vereis word is en hoe daardie inligting hom sal ondersteun in die uitoefening of beskerming van daardie reg”.

- 11.2.3 Soms kan die vraag of 'n rekord 'n openbare of private rekord is ingewikkeld wees en die publiek word aangeraai om regsadvies te soek. Byvoorbeeld, indien 'n openbare liggaam 'n privaat liggaam aanstel om sekere dienste aan sy ontwil te lewer, soos die installasie van watermeters in sekere gemeenskappe, toegang tot die nommers van geïnstalleerde meters, selfs indien sodanige inligting deur 'n privaat liggaam gehou word, word dit as die inligting van 'n openbare liggaam hanteer.
- 11.3 Hoe verduidelik 'n persoon die reg wat hy beoog om uit te oefen of te beskerm?
 - 11.3.1 Wanneer 'n reg gestaaf moet word wat 'n mens beoog om te beskerm of uit te oefen in die versoek om inligting van 'n privaat liggaam, kan mens nie die reg om toegang tot inligting staaf nie. 'n Mens moet verduidelik hoe die rekord wat aangevra word redelikerwys nodig is vir die persoon om 'n ander reg te beskerm of uit te voer. Dit kan regte wat nie net grondwetlike regte is nie, insluit.
 - 11.3.2 'n Mens kan byvoorbeeld die meester planne van 'n maatskappy aanvra wat die potensiaal het om 'n besoedelingsimpak in 'n gemeenskap te hê, ten einde te help om 'n mens se reg tot die omgewing te beskerm deur die monitering van sy werksaamhede. Of 'n mens kan rekords aanvra, wat sal help om te bepaal of 'n mens die reg het om 'n Siviele eis teen 'n entiteit in te stel. Dis is dus nodig dat mens:
 - 11.3.2.1 Die reg wat hy wil uitoefen of beskerm identifiseer en dan
 - 11.3.2.2 Duidelik verduidelik waarom die rekord wat hy aanvra redelikerwys benodig word om te help met daardie reg.
 - 11.3.3 In kontras hiermee, wanneer 'n **PAIA**-versoek aan 'n openbare liggaam gerig word, hoef mens nie 'n rede vir die versoek om inligting te hê nie.

12. WIE KAN 'N PAIA-VERSOEK RIG?

- 12.1 Enige persoon, hetsy dit 'n Suid-Afrikaner of nie-Suid-Afrikaner, word toegelaat om 'n versoek kragtens die **PAIA**-wet te rig. Die versoeker kan 'n natuurlike persoon of 'n regspersoon wees.

12.2 'n openbare liggaam word as 'n regspersoon geag en mag 'n versoek om toegang tot rekords gehou deur privaatliggame rig, maar slegs indien die openbare liggaam -

12.2.1 in die belange van die publiek optree, en

12.2.2 Indien die rekords nodig is vir die vervulling of beskerming van enige regte anders as dié van die openbare liggaam.

12.3 Kragtens die **PAIA**-wet, mag 'n versoeker nie 'n versoek om toegang tot 'n rekord van die openbare liggaam, wat persoonlike inligting oor die versoeker bevat, rig nie, maar die versoeker of betrokke kan, in ingevolge Artikel 23(1)(b) van die **POPI**-wet, die rekord van 'n verantwoordelike party aanvra of 'n beskrywing van die persoonlike inligting oor die betrokke wat deur die verantwoordelike party gehou word.¹⁵ Dit beteken dat enige persoon nou kan toegang versoek tot hulle persoonlike inligting wat deur die openbare of privaat liggaam gehou word, ten tyde van vertoning van genoegsame bewys van identiteit. Die persoonlike inligting wat 'n aansoeker kan versoek van die verantwoordelike liggaam kan inligting oor die identiteit van alle derde partye, of kategorieë van derde partye insluit wat toegang tot die inligting het of gehad het.

12.4 Ingevolge Artikel 50(1) van **POPI**-wet, kan enige persoon toegang versoek tot 'n rekord van 'n privaat liggaam, wat persoonlike inligting oor die versoeker bevat of die persoon namens wie die versoek gerig word.

13. AAN WIE KAN 'N VERSOEK GERIG WORD?

13.1 Die inligtingsbeampte van 'n openbare liggaam is verplig om 'n Adjunk-inligtingsbeampte(s) aan te wys, wat moet verseker dat toegang tot die rekords van die openbare liggaam redelikerwys toeganklik as moontlik gemaak word. Hoewel dit nie 'n vereiste was met betrekking tot die privaat liggaam kragtens die **PAIA**-wet nie, mag 'n privaat liggaam die bogenoemde Adjunk-inligtingsbeampte aanwys, kragtens Artikel 56 van **POPI**-wet.

13.2 Die versoek om toegang tot inligting, hoewel dit aan die inligtingsbeampte gerig mag word, kan ingedien word by die adjunk-inligtingsbeampte. Besonderhede van adjunk-inligtingsbeampte(s) kan verkry word in die **PAIA**-gids van daardie spesifieke liggaam of van die Reguleerder.

14. HOE OM DIE VORM TE VOLTOOI

14.1 Vorm 2 - versoek om toegang tot 'n rekord vanaf 'n openbare of privaat liggaam:

14.1.1 Ten einde die **PAIA**-vorm te voltooi, moet 'n persoon genoegsame besonderhede verskaf om sodoende die Inligtingsbeampte en Adjunk-inligtingsbeamptes in staat te stel om die verlangde rekords op te spoor.

¹⁵ Artikel 11(2) van die PAIA-wet

- 14.1.2 Die **PAIA**-regulasies spesifiseer die vorm wat gebruik moet word, wat aan die Inligtingsbeampte of Adjunk-inligtingsbeampte van die liggaam gestuur moet word.
- 14.1.3 Versoekers wat nie kan lees of skryf nie, kan mondelinge versoeke aan die Inligtingsbeampte of die Adjunk-Inligtingsbeampte van 'n openbare liggaam rig, wie dan verantwoordelik is vir die voltooiing van vorm 2 namens die versoeker. Die huidige vorm vereis dat u die volgende afdelings voltooi:

Inligting wat vereis word	Beskrywing
Besonderhede van openbare / private liggaam	Hierdie afdeling moet e-posadres en faksnommer van die Inligtingsbeampte en / of Adjunk-inligtingsbeampte bevat.
Besonderhede van persoon wat toegang tot rekords versoek	Dit behoort genoeg inligting oor die versoeker te bevat om die versoeker redelik maklik te identifiseer, met inbegrip van die besonderhede van die aansoeker: posadres, e-pos, faks en / of telefoonnommer in Suid-Afrika. Dit vra ook vir u identiteitsnommer om u identiteit te waarmerk. Indien u 'n versoek om inligting namens iemand anders rig, moet bewys van die hoedanigheid waarin u die versoek rig, voorsien word (soos die 'gemagtigde persoon').
Besonderhede van die rekord wat versoek word	Voorsien volle besonderhede van die rekord waarop toegang versoek word, met inbegrip van die verwysingsnommer indien dit bekend is, ten doel die rekord op te spoor. (Indien die gegewe spasie onvoldoende is, gaan asseblief op 'n aparte bladsy voort en heg dit aan die vorm. Alle addisionele bladsye moet geteken word.
Tipe rekord	Dit behoort genoeg inligting te bevat oor die rekord om dit redelik maklik om te identifiseer. Indien die inligting wat vereis word, nie in die gegewe ruimte in die vorm pas nie, mag 'n addisionele handgeskrewe of getikte bladsy gebruik word om meer besonderhede oor die versoek te verskaf, solank elke addisionele bladsy onderteken word en aan die

Inligting wat vereis word	Beskrywing
	aansoekvorm geheg word. U kan byvoorbeeld, 'n uittreksel uit 'n verslag of nuusberig insluit wat betrekking het tot die rekord waarna u soek. Dit maak voorsiening om 'n verwysingsnommer vir die rekord in te sluit, indien dit van toepassing is.
Foocie	Die liggaam aan wie 'n versoeker van plan is om 'n versoek om toegang tot 'n rekord te rig, met inbegrip van 'n rekord wat persoonlike inligting bevat oor hom- of haarself, kan versoek dat u 'n versoekfooi (toegangsfooi) of 'n deposito betaal, maar daardie bedrag mag nie buitensporig wees nie, omdat die foocie gehef word vir die redelike tyd nodig om te soek vir die rekord en dit voor te berei. Die Minister kan deur middel van 'n kennisgewing in die Staatskoerant, die betaling van foocie soos gelys in paragraaf 51.1 hieronder, vrystel. 'n Ruimte is beskikbaar vir die versoeker om aan te dui waarom hy glo hy of sy moet vrygestel word om enige foocie te betaal. Die rede kan insluit, byvoorbeeld, dat hy of sy werkloos is.
Vorm van toegang tot 'n rekord	Hierdie afdeling laat u toe om met 'n " x " u voorkeure aan te dui vir die vorm van toegang tot die rekord wat voorsien word, hetsy 'n gedrukte afskrif van 'n rekord en/of op 'n flitsaandrywer en/of op 'n kompakskyf.
Wyse van toegang	In hierdie afdeling word daar van u vereis om u voorkeure te merk met betrekking tot watter taal die rekord moet wees (dit mag dalk nie moontlik wees met betrekking tot alle rekords nie, maar u moet steeds u voorkeur aandui). Die wyse van toegang tot die rekord kan bydra tot 'n weiering van toegang as gevolg van hoër tariewe.

Inligting wat vereis word

Beskrywing

Byvoorbeeld, indien 'n versoeker 'n dokument in u voorkeurtaal wil hê, mag fooie vir die verandering van die dokumente na jou voorkeurtaal betaalbaar word. Indien die rekord nie beskikbaar is in die taal wat u verkies nie, mag toegang verleen word in die taal waarin die rekord beskikbaar is. Die wyse van toegang tot 'n rekord mag die volgende insluit: persoonlike besigtiging van 'n rekord, 'n rekord per e-pos of faks of koerier of per pos.

Kennisgewing van 'n besluit met betrekking tot 'n versoek om toegang

'n Spasie word gebied vir die versoeker om die wyse waarop hy verlang om ingelig te word oor die besluit om die versoek toestaan of weier. Die versoeker kan byvoorbeeld aandui dat hy eerder deur e-pos of per telefoon ingelig wil word, of die respons kan na hom gepos word of per koerier gestuur word.

Besonderhede van die reg wat uitgeoefen of beskerm word

Wanneer inligting van 'n privaat liggaam versoek word, is 'n versoeker verplig om die "besonderhede van die reg wat uitgeoefen of beskerm word" te beskryf. Hier moet hy die reg waarop hy staat maak stel (soos sy reg op 'n gesonde omgewing) en hoe die rekord wat hy aanvra sal help om die reg uit te oefen of te beskerm. Hy moet 'n verband tussen die rekord wat hy aanvra en die uitoefening of beskerming van die reg staaf.

Ongelukkig, in teenstelling met die versoek om toegang tot 'n rekord van 'n openbare liggaam, kan hy nie toegang tot 'n rekord van die privaat liggaam bekom nie, tensy hy die reg(te) wat hy wil beskerm of uitoefen staaf, sou toegang tot inligting verleen word. Dit kan die feit insluit dat, nadat hy toegang tot rekords verleen is, hy dan sy reg op gelyke beskerming en voordeel van die reg sal uitoefen deur die liggaam te dagvaar vir skade wat hy moontlik kon gely het.¹⁶

¹⁶ Artikel 9(1) van die Grondwet van die Republiek van Suid-Afrika, Wet No. 108 van 1996

14.1.4 Indien sy versoek om enige rede nie voldoen aan die vereistes wat hierbo gelys is nie, mag die inligtingsbeampte nie die versoek weier nie, tensy hy die versoeker in kennis stel dat hy van voornemens is om die versoek te weier, en die redes vir weiering verskaf word. Die Inligtingsbeampte moet ook die versoeker in kennis stel dat hy hom sal help of aan hom 'n geleentheid sal bied om die fout te wysig.

15. DIE KOSTES BETROKKE

15.1 Oor die algemeen, moet die fooie betaal word vir beide vir die rig van 'n versoek en ook om die koste van die voorsiening van toegang tot rekords in ten opsigte van 'n versoek te dek. Daar is egter 'n paar uitsonderings. Indien die versoeker toegang tot die rekords wat hy of sy versoek het toegestaan is en hy of sy nie van die betaling van enige fooie, soos aangedui in paragraaf 15.2 hieronder, vrygestel is nie, mag die Inligtingsbeampte of Adjunk-inligtingsbeampte die voorgeskrewe fooie hef, soos volg-

NB: Die fooi-struktuur ten opsigte van betaalbare fooie aan die Openbare en Private liggame kan op die Reguleerder se webtuiste gevind word.

Item	Beskrywing
1	Die versoekfooie, betaalbaar deur elke versoeker
2	Fotostaat van A4-grootte bladsy
3	Gedrukte afskrif van A4-grootte bladsy
4	Vir 'n kopie in 'n rekenaar-leesbare formaat op: (i) Flitsaandrywer (voorsien deur die versoeker) (ii) Kompakskyf • Indien voorsien deur die versoeker • Indien voorsien aan die versoeker
5	Vir 'n transkripsie van visuele beelde per A4-grootte bladsy
6	Afskrif van visuele beelde
7	Transkripsie van 'n oudiorekord, per A4-grootte bladsy
8	Kopie van 'n oudiorekord: (i) Flitsaandrywer (voorsien deur die versoeker) (ii) Kompakskyf • Indien voorsien deur die versoeker • Indien voorsien aan die versoeker
9	Om 'n rekord op te spoor en voor te berei vir bekendmaking, vir elke uur of deel van 'n uur, uitsluitend die eerste uur, redelijkerwys nodig vir welke soektog en voorbereiding. Om nie oorskrydend te wees aan 'n totale koste van
10	Deposito: Indien soektog 6 ure oorskry
11	Posgeld, e-pos of enige ander elektroniese oordrag

15.2 Die versoeker hoef nie 'n toegangsfooi¹⁷ aan 'n openbare liggaam te betaal nie, indien:-

15.2.1 Hy 'n enkel persoon is wie se jaarlikse inkomste, na die toelaatbare aftrekkings soos **LBS** en **WVF**, minder as **R14 712.00** 'n jaar is, of

15.2.2 Hy getroud is en die gesamentlike inkomste met sy gade, na toelaatbare aftrekkings soos **LBS** en **WVF**, minder as **R27 192.00** per jaar beloop.

15.3 Let asseblief daarop dat die openbare of privaat liggaam, in Vorm 4 tot die regulasies, 'n deposito van die versoeker mag eis, maar slegs indien hulle glo dat die inligting of rekords wat versoek word meer as ses (6) ure sal neem om te soek, maar die deposito bedrag mag nie meer as een-derde van die voorgeskrewe fooi wees nie.

16. SAL DIE INLIGTINGSBEAMPTTE DIE VERSOEKER HELP OM 'N PAIA-VERSOEK TE RIG?

16.1 Die rol van die Inligtingsbeamptes en/of Adjunk-Inligtingsbeamptes van beide openbare en private liggame is om, in soverre dit betrekking het tot die verwerking van versoeke om toegang tot rekords is om:

16.1.1 die **PAIA**- of **POPI**-versoek te ontvang;

16.1.2 die verwerking van die versoek binne die liggaam te koördineer;

16.1.3 'n beslissing maak om toegang toe te staan of te weier tot die rekords wat aangevra word;

16.1.4 te skakel met die aansoeker (bv. hulle mag dalk die versoeker vir meer besonderhede vra, of hulle mag dalk nodig hê om te vra vir 'n verlenging van die tydperk om die versoek te af te handel, ens.)

16.1.5 die versoeker in kennis te stel van die uitkoms van hul **PAIA**-versoek, waarvan die kennisgewing so spoedig redelik moontlik gegee moet word, maar **binne 30 dae** na ontvangs van die versoek. Die aanvanklike tydperk van 30 dae mag eenmaal verleng word vir 'n verdere tydperk van nie meer as 30 dae, indien die versoeker instem op die verlenging of indien die versoek 'n soeke na rekords vereis wat nie redelik afgehandel kan word binne die oorspronklike tydperk nie;

16.1.6 verstrek redes aan die versoeker vir die beslissing om toegang te weier. Dit is baie belangrik dat die redes wat verstrek word vir 'n weiering duidelik en volledig en omvattend is, en moet verwys na die spesifieke artikels van die **PAIA**-wet (sien paragraaf 19.4 hieronder met betrekking tot die gronde vir weiering van toegang tot rekords)¹⁸

¹⁷ volgens Goewermentskennisgewing R991 van 14 Oktober 2005

¹⁸ Artikel 33 tot 46 van die PAIA-wet

- 16.1.7 lig relevant derde party in deur die derde party-kennisgewingsproses ingevolge artikel 47 van **PAIA**; en
- 16.1.8 indien toegang tot die rekord toegestaan word, verskaf 'n kopie van die rekord aan die versoeker.
- 16.2 Wanneer die versoeker ingelig word van die besluit, lig hul ook in van die moontlike verhaal beskikbaar asook die relevante tydlyne daarvan .
- 16.3 Die bykomende rolle en verantwoordelikhede van die Inligtingsbeamptes en/ of die Adjunk-inligtingsbeamptes word omvat in die Riglyn vir Inligtingsbeamptes en Adjunk-inligtingsbeamptes en dié Riglyn kan bekom word by <https://www.justice.gov.za/inforeg/docs.html>
- 16.4 Die rol van die Inligtingsbeampte en/ of die Adjunk-inligtingsbeampte is om die versoek na inligting te fasiliteer, en dus beteken dit hul het 'n verskeidenheid van pligte teenoor diegene wat 'n versoek rig.
- 16.5 Die Inligtingsbeamptes en/ of Adjunk-inligtingsbeamptes moet hierdie hulp gratis verskaf.
- 16.6 Die Inligtingsbeamptes en/ of Adjunk-inligtingsbeamptes van 'n openbare liggaam het die volgende spesiale take:

Pligte van Inligtingsbeamptes	Beskrywing
Help om die vorm te voltooi	Die Inligtingsbeampte moet redelike hulp verleen aan die versoeker om hul PAIA -vorm te voltooi, en mag ook nie weier om 'n vorm te aanvaar wat nie behoorlik voltooi is behalwe as hul reeds die hulp verleen het, of hulp aangebied het en die hulp is van die hand gewys.
Verskaf relevante inligting	Die Inligtingsbeampte moet, waar redelik moontlik, relevante inligting aan die versoeker verskaf, al word dit nie spesifiek versoek nie.
Oordrag van die versoek	Hierdie is 'n baie belangrike plig. Wanneer 'n PAIA -versoek aan die verkeerde openbare liggaam gerig word, moet die Inligtingsbeampte die versoek aan die korrekte openbare liggaam oordra binne 14 dae vanaf

Pligte van Inligtingsbeamptes	Beskrywing
	die versoek ontvang is, en die versoeker moet op skrif daarvan ingelig word. Die Inligtingsbeamptes moet, sodra dit oorgedra is, binne 30 dae met 'n besluit na vore kom.
Uitstel van vrystelling	Die Inligtingsbeampte mag besluit om die vrystelling van 'n rekord aan 'n versoeker uit te stel as die rekord binne 90 dae gepubliseer gaan word of as dit deur die wet bepaal word om gepubliseer te word maar dit is nog nie.

- 16.7 Die Inligtingsbeampte moet, vir albei private en openbare liggame, as hul nie die spesifieke rekords kan opspoor wat versoek is nie of as hul glo die rekords bestaan nie, 'n omvattende beëdigde verklaring of bevestiging¹⁹ aan die versoeker bied waarmee hul kennis gee dat dié rekords nie bestaan of nie gevind kan word nie, maar waarby die stappe wat hul kan neem om dit op te spoor aangedui word.

17. BYSTAND VERLEEN DEUR DIE INLIGTINGSREGULEERDER KRAGTENS DIE PAIA- EN POPIA-WET

- 17.1 Dit is die Inligtingsbeampte van 'n openbare liggaam se plig om redelike, gratis hulp te verleen waar nodig²⁰, om te verseker dat die versoeker of betrokke persoon voldoen aan die wyse van toegang soos bepaal in artikels 18 van die **PAIA**-wet en artikel 23 van die **POPIA**-wet.
- 17.2 Maar, as die Inligtingsbeampte faal om sy pligte uit te voer, soos na verwys in paragraaf 17.1 hier bo, mag 'n versoeker of betrokke persoon 'n klagte by die Reguleerder loods en die Reguleerder mag, na verdere ondersoek, 'n afdwingsbevel uitreik wat die Inligtingsbeampte aanspreek om die redelike bystand te lewer.
- 17.3 Waar dit redelik moontlik is, mag die Reguleerder per versoek enige persoon bystaan om hul regte uit te oefen, soos bepaal in **PAIA** en **POPIA**²¹, en dit sluit redelike hulp, gratis, soos benodig deur die versoeker of betrokke persoon om te voldoen aan die wyse van toegang soos bepaal in artikels 18 en 53 van die **PAIA**-wet en artikel 23 van die **POPIA**-wet.
- 17.4 Die bogenoemde sluit in bystand oor hoe om 'n versoek ter rig vir toegang of oor hoe om 'n vorm te voltooi namens 'n ongeletterde of blinde persoon.

¹⁹ Artikel 23(1) en 51(1) van PAIA

²⁰ Artikel 19(1) van PAIA

²¹ Artikel 83(3)(c) van PAIA

18. KAN DIE INLIGTINGSBEAMPTTE DIE BETROKKE TYDLYNE VERLENG?

- 18.1 'n Oorsig van die proses en die sleutel tydlyne betrokke word in die diagram van die PAIA-versoekproses in paragraaf 27 hieronder omskryf. Die gebruik van spesifieke tydlyne is 'n belangrike deel van **PAIA**, dit kweek die effektiewe bestuur van versoeke vir toegang tot rekords.
- 18.2 Ter herinnering, sodra u korrekte versoek ingedien word by die Inligtingsbeampte of die Adjunk-inligtingsbeampte, aan wie die versoek gerig is of oorgedra is, moet hul binne 'n redelike tydperk of **binne 30 dae**²² beantwoord. Nietemin, die Inligtingsbeampte van 'n openbare of private liggaam mag aansoek doen om 'n enkele **30 dae verlenging**²³, maar net as:
- 18.2.1 die versoek is vir 'n groot aantal rekords of vereis 'n groot aantal rekords wat deursoek moet word en, sonder die verlenging, sal die soektog inmeng met die normale aktiwiteite van die liggaam;
- 18.2.2 die versoek vereis 'n soektog deur rekords in 'n kantoor van die liggaam wat nie in dieselfde stad of dorp is nie en kon dus nie **binne die 30 dae** voltooi word nie; en/of
- 18.2.3 dit verg 'n vlak van konsultasie om op te tree teenoor die versoek, wat nie redelik **binne net 30 dae** voltooi kon word nie.
- 18.3 Die Inligtingsbeampte moet die versoeker inlig van haar of sy voorneme om die aanvangsperiode te verleng, en om ook die periode van die verlenging aan te dui, die rede vir die verlenging, en om die versoeker in te lig van haar of sy reg om te -
- 18.3.1 Appelleer by die aangewese owerheid;
- 18.3.2 klagte te rig aan die Reguleerder; of
- 18.3.3 regstappe te volg in die hof teen die verlenging.
- 18.4 Die Inligtingsbeampte moet ook die versoeker in die kennis stel van elk van die prosesse van die bogenoemde regte²⁴.

19. ANTWOORDE TOT 'N VERSOEK OM INLIGTING

- 19.1 **PAIA** gee die publiek die reg om toegang tot rekords vanaf enige openbare of private liggaam te versoek. Dit word gereeld beskryf as die wet wat die burgers ingelig hou oor hul regering. Openbare liggame moet inligting wat versoek word onder **PAIA** beskikbaar maak behalwe as dit onder een van die **twalf (12) vrystelling**

²² Artikel 25(1) van PAIA

²³ Artikel 26(1) van PAIA

²⁴ artikel 26(3) van PAIA - die verlengingskennisgewing moet meld dat die versoeker 'n interne appèl mag aanteken, 'n klag by die Inligtingsreguleerder of 'n aansoek by 'n hof kan indien, soos die geval mag wees, teen die verlenging, en die prosedure (insluitende die tydperk) vir die indiening van die interne appèl, klag aan die Inligtingsreguleerder of aansoek, na gelang van die geval.

val of redes hoekom toegang tot rekords van 'n openbare liggaam toegestaan moet word of nie²⁵ en **sewe (7) vrystellings** of redes hoekom toegang tot rekords van 'n private liggaam toegestaan moet word of nie.²⁶ Die negentien (19) vrystellings wat in **PAIA** voorkom, is in die belang van die beskerming van persoonlike privaatheid, nasionale sekuriteit, en wetstoepassing.

19.2 Die onderliggende rigsgnoer van die administrasie van **PAIA** is die oopheid vermoede. Dit beteken dat enige rede vir die beperking van hierdie oopheid moet geregverdig wees. Openbare liggame moet ook oorweeg of die gedeeltelike openbaring van inligting moontlik sal wees en waar daar bepaal word dat volle openbaring nie moontlik is nie, moet die inligting wat nie openbaar kan word nie gesny of geredigeer word en die res moet geopenbaar word.

19.3 Tipes antwoorde op versoeke

19.3.1 Wanneer 'n versoek om toegang tot 'n rekord gemaak word, moet die Inligtingsbeampte of Adjunk-inligtingsbeampte die versoeker in kennis stel, of die versoek om toegang toegestaan of geweier is, van -

- (a) sy of haar besluit; en
- (b) die betaalbare fooie, soos van toepassing is,

op 'n vorm wat wesenlik aansluit by **Vorm 3** van Aanhangsel A van die Regulasies:

19.3.2 Nietemin, **PAIA** verskaf 'n lys van redes of gronde (vrystellings) (sien paragrawe 19.4 en 19.6 hieronder) hoekom die versoek kan of moet geweier word. Dit is belangrik, want die versoek kan alleenlik geweier word op gronde van een van die gelyste gronde vir weiering van toegang tot rekords.

19.3.3 Ten spyte van die bogenoemde redes vir die weiering van toegang tot rekords, moet die Inligtingsbeampte die versoek vir toegang tot 'n rekord van die liggaam toestaan as die openbare belang van die vrystelling van die rekord die skade wat oorweeg word in die lys van redes vir weiering oorskry²⁷. Dit beteken die versoeker kan staat maak op openbare belang wanneer enige van die gronde vir weiering van toegang tot rekords beroep word.

19.3.4 Kortliks, die redes hoekom inligting nie vrygestel kan word nie het te make met of die openbaring van inligting meer skade sal doen as wat die nie-openbaring sal. Daar is twee verskillende tipes gronde wat gelys word vir die weiering van toegang tot rekords van 'n liggaam:

²⁵ Hoofstuk 4 van PAIA - gronde vir weiering van toegang tot rekords (artikel 34-45 van PAIA)

²⁶ Hoofstuk 4 van PAIA - gronde vir weiering van toegang tot rekords (artikel 63-69 van PAIA)

²⁷ Artikel 46 van PAIA

19.4 Lasgewende gronde van weiering (gronde van vrystelling)

19.4.1 Die Inligtingsbeampte of die Adjunk-inligtingsbeampte moet wanneer dit te make het met lasgewende gronde, die versoek weier want dit het te doen met die rekord.

19.4.2 Daar is meer lasgewende gronde as diskresionêre gronde. Die volgende is die lasgewende gronde van weiering, en die inligtingsbeampte of die Adjunk-inligtingsbeamptes moet die aansoek weier want dit het te make met die rekord -

19.4.2.1 **Lasgewende beskerming van die privaatheid van 'n derde party wie 'n natuurlike persoon is;**

Die Inligtingsbeampte van 'n openbare of private liggaam mag nie toelaat dat 'n versoeker toegang kry tot die persoonlike inligting van 'n ander persoon as dit geag kan word as "'n onredelike openbaring" nie. Die afdelings dui self 'n paar redes aan wanneer dit nie van toepassing is nie, soos wanneer die rekords reeds algemeen bekend is, of as 'n persoon toestemming gegee het. Die toestemming kwessie is veral belangrik want dit sluit aan by 'n ander deel van die proses waarvan die versoeker bewus moet wees, dit hou verband met derde party kennisgewings, kragtens hoofstuk 5 van **PAIA**.

19.4.2.2 **Lasgewende beskerming van sekere rekords van die Suid-Afrikaans Inkomstediens;**

Die Inligtingsbeampte van SAID mag nie toelaat dat 'n versoeker toegang kry tot rekords wat verkry of behou word deur SAID vir die invordering van inkomste nie. Nietemin, rekords wat verkry of behou word deur SAID mag nie geweier word as 'n versoek gerig word deur 'n persoonlike versoeker of die persoon namens wie die versoek gemaak word nie.

19.4.2.3 **Lasgewende beskerming van kommersiële inligting van 'n derde party;**

Die Inligtingsbeampte van 'n liggaam mag nie toelaat dat 'n versoeker toegang kry tot die kommersiële inligting van 'n ander persoon nie (in ander woorde, wie nie die versoeker is nie). Dit sluit inligting soos bedryfsgeheime, of wat die derde party se kommersiële belange in gevaar stel. Byvoorbeeld, KFC maak gebruik van sekere resepte, insluitend bestanddele vervaardig deur 'n derde party, wat bedryfsgeheime is van die derde party en die openbaring daarvan kan die kommersiële belange van die derde party in gevaar stel.

19.4.2.4 Lasgewende beskerming van sekere konfidensiële inligting, en die beskerming van sekere ander konfidensiële inligting, van 'n derde party;

Die Inligtingsbeampies van albei openbare en private liggame mag nie toelaat dat 'n versoeker toegang kry tot 'n rekord as die vrystelling daarvan sal veroorsaak dat daar 'n verbreking van 'n vertrouensplig wat geskuld word aan 'n derde party kragtens 'n ooreenkoms of kontrak.

19.4.2.5 Lasgewende beskerming van die veiligheid van individue, en die beskerming van eiendom;

Die Inligtingsbeampte van albei 'n openbare of private liggaam mag nie toelaat dat 'n versoeker toegang kry tot 'n rekord as die vrystelling daarvan die veiligheid van 'n individu in gevaar kan stel nie. In dieselfde afdelings meld dit ook dat die Inligtingsbeampte van 'n liggaam mag toegang weier as dit moontlik die veiligheid van 'n gebou of eiendom kan benadeel.

19.4.2.6 Lasgewende beskerming van polisie dossiere in borgtog verrigtinge, en die beskerming van wetstoepassende- en regsverrigtinge;

Die Inligtingsbeampte van 'n openbare liggaam mag nie toelaat dat 'n versoeker toegang kry tot rekords soos borgtog verrigtinge wat reeds deur artikel 60 van die Strafproseswet beskerm word nie. In dieselfde afdeling word daar ook gemeld dat die Inligtingsbeampte van 'n openbare liggaam mag toegang tot rekords van wetstoepassing weier as dit die metodes, tegnieke, prosedures vir die voorkoming van misdaad, of die vervolging van misdade, as ook sekere ander rekords relevant tot regsgeding wat plaasvind bevat.

19.4.2.7 Lasgewende beskerming van geprevilegieerde rekords van regsgeding;

Die Inligtingsbeampte van 'n private liggaam mag nie toelaat dat 'n versoeker toegang kry tot 'n rekord as die rekord geprivilegieerd is in regsgeding nie, behalwe as die persoon wie die privilegie van toepassing op is afstand daarvan gedoen het.

19.4.2.8 Lasgewende beskerming van navorsingsinligting van 'n derde party, en die beskerming van navorsingsinligting van 'n openbare of private liggaam.

Die Inligtingsbeampte van 'n liggaam mag nie toelaat dat 'n versoeker toegang kry tot 'n rekord as die rekord verband hou met navorsing wat reeds, of sal onderneem word deur die liggaam en die vrystelling daarvan kan die navorser, die derde party of die kwessie wat nagevors word ernstige benadeel nie.

19.4.3 Dra asseblief kennis dat die bogenoemde lasgewende gronde vir weiering van toegang tot rekords is redelik dieselfde vir openbare en private liggame, behalwe vir die lasgewende beskerming van sekere rekords van die Suid-Afrikaanse Inkomstediens, polisie dossiere in borgtog verrigtinge, van wetstoepassing en van regsgeding, wat net van toepassing is op openbare liggame.

19.4.4 As net 'n deel van die rekord gekoppel is aan 'n vrystellingsgrond, is die Inligtingsbeampte of Adjunk-inligtingsbeampte van albei openbare en private liggame verplig om te oorweeg of die gedeeltelike openbaring van inligting moontlik is wanneer hulle bepaal dat die volle openbaring nie moontlik is nie en hul moet redelike stappe neem om die deel wat nie aan die versoeker verskaf kan word nie te sny of te redigeer en om toegang aan die res van die rekord te bied.

19.5 Vermeende weiering van versoek²⁸

19.5.1 'n Mislukking om die versoek behoorlik te beantwoord binne die korrekte tydslyn word geag as 'n 'vermeende weiering'. Dit is belangrik, want **PAIA** laat toe dat die versoeker 'n besluit kan uitdaag wanneer geen besluit geneem is nie en die versoek geïgnoreer is. Die versoeker kan net by die interne appel stel dat geen antwoord ontvang is nie.

19.5.2 Die versoek na toegang tot rekords word geag as geweier na die verval van 30 dae of enige verlengde periode waarby die openbare of private liggaam versuim om te beantwoord.

19.6 Diskresionêre gronde van weiering

19.6.1 Met diskresionêre gronde, mag 'n inligtingsbeampte of adjunk-inligtingsbeampte dit oorweeg om 'n versoek te weier of nie, omdat die gronde vir die aangevraagde rekord geldig is. Aangesien dit 'n diskresie is, moet die Inligtingsbeampte hom/haar objektief in die besluit verdiep wanneer die verskillende gronde oorweeg word, naamlik:

19.6.1.1 **Suid-Afrika se verdediging, veiligheid en internasionale betrekkinge:** Die Inligtingsbeampte kan toegang weier as redelikerwys verwag kan word dat die bekendmaking van die inligting die verdediging of veiligheid van die land sal bedreig. Dit kan ook van toepassing wees indien die bekendmaking van die inligting Suid-Afrika se betrekkinge met 'n ander land kan benadeel, soos die openbaarmaking van rekords wat vertroulik verskaf word.

19.6.1.2 **Ekonomiese, finansiële en kommersiële belange:** Die Inligtingsbeampte kan toegang weier as die vrylating daarvan nadelig sal wees vir die ekonomiese en finansiële status van die Republiek;

²⁸ Artikel 27 en 58 van PAIA

19.6.1.3 **Bedrywighede van openbare liggame:** Die inligtingsbeampte van 'n openbare liggaam kan toegang weier as die bekendmaking van die inligting redelikerwys die bedrywighede kan belemmer, byvoorbeeld as dit probeer om beleide te formuleer, of oor 'n kwessie te beraadslaag;

19.6.1.4 **Klaarblyklik ligsinnige of lastige versoeke:** Die Inligtingsbeamptes kan 'n versoek om inligting weier as hulle van mening is dat die verwerking van versoeke onredelik tydrowend sal wees en tot 'n vermorsing van hulpbronne sal lei. Daarbenewens kan hulle toegang tot 'n rekord weier as hulle glo die versoeker dit aanvra om onnodig te irriteer of uit te lok.

20. MANDATORY DISCLOSURE OF RECORDS IN THE PUBLIC INTEREST

20.1 Al bestaan 'n diskresionêre of verpligte weieringsgrond in verband met 'n versoek om toegang tot rekords van openbare of privaat liggame, is daar altyd die moontlikheid dat die openbare belang in die openbaarmaking van die rekord belangriker is as die skade wat die vrystelling van die rekord sal hê.

20.2 Waar die belangrikheid van openbare belang bestaan soos hierbo uiteengesit, en die bekendmaking van die rekord bewys sou kon lewer van 'n wesenlike oortreding van, of versuim om die wet na te kom; of 'n dreigende en ernstige openbare veiligheids- of omgewingsrisiko, moet die Inligtingsbeampte van 'n liggaam 'n versoek toestaan vir toegang tot 'n rekord, ondanks die bestaan van die bogenoemde vrystellingsgronde.

21. DERDE PARTY KENNISGEWINGSPROSES²⁹

21.1 'n Inligtingsbeampte of adjunk-inligtingsbeampte van 'n liggaam word ingevolge artikels 47 en 71 van **PAIA** verplig om alle redelike stappe te neem om 'n derde party in kennis te stel oor 'n versoek om sy of haar inligting wat 'n rekord kan wees wat persoonlike inligting bevat,

21.1.1 'n SAID rekord;

21.1.2 handelsgeheime;

21.1.3 inligting waarvan die vrylating gronde kan vorm vir 'n aksie vir die verbreking van 'n vertrouenspilig; of navorsingsinligting wat iemand of die navorsingsmateriaal aan ernstige skade kan blootstel.

21.2 Die kennisgewing aan die derde party wie se rekords of inligting onderhewig is aan die versoek, moet die derde party nooi om -

²⁹ Artikel 47 en 71 van PAIA

- 21.2.1 skriftelike of mondelinge verhoë tot die Inligtingsbeampte rig waarom die versoek om toegang geweier moet word; of
- 21.2.2 skriftelike toestemming gee vir die openbaarmaking van die rekord aan die versoeker.
- 21.3 Meer belangrik vir die versoeker, **PAIA** stel dat die skriftelike kennisgewings binne 21 dae na ontvangs van die versoek aan die derde party gestuur moet word, en dat die Inligtingsbeampte of Adjunk-inligtingsbeampte die versoeker in kennis moet stel dat 'n kennisgewing aan die derde party gestuur is.
- 21.4 Sodra die kennisgewing gestuur is, moet die Inligtingsbeampte of Adjunk-inligtingsbeampte dan 'n finale besluit neem om die rekords binne 30 dae nadat die kennisgewing gestuur is, bekend te maak of nie.
- 21.5 Die derde party moet in kennis gestel word van die besluit wat geneem is en voldoende redes vir die toestaan van die versoek moet ook verstrekkend word. Die derde party moet ook ingelig word oor die reg en die prosedure om die beslissing te betwis, soos aangedui in paragraaf 22 hieronder.

22. REGSMIDDELE BESKIKBAAR TEEN 'N BESLUIT OF VERSUIM OM 'N BESLUIT TE NEEM DEUR DIE INLIGTINGSBEAMPTTE OF ADJUNK-INLIGTINGSBEAMPTTE

- 22.1 Stappe om te neem sodra 'n besluit oor 'n versoek geneem is
- 22.1.1 'n Versoeker kan skriftelik 'n opvolgaksie neem op die hangende besluit van 'n inligtingsbeampte of adjunk-inligtingsbeampte. Dit word aangemoedig dat alle korrespondensie tussen 'n versoeker en die inligtingsbeampte of adjunk-inligtingsbeampte skriftelik moet wees vir toekomstige verwysingsdoeleindes.
- 22.1.2 Daar is verskillende prosesse vir openbare en private liggame, veral met betrekking tot interne appëlle. Met betrekking tot 'n versoek om toegang tot 'n rekord van 'n openbare liggaam, moet die versoeker byvoorbeeld eers 'n interne appël indien voordat hy die Reguleerder of die Hof nader. Daar is egter geen interne appël teen 'n beslissing (hetsy die toegang tot rekords toegestaan of geweier is) of vermeende weiering van toegang tot die rekords van 'n privaat liggaam nie.
- 22.1.3 In hierdie afdeling word die regsmiddele uiteengesit wat beskikbaar is vir versoekers wat sulke beslissings wil betwis, waaronder interne appëlle, die indiening van 'n klag by die Reguleerder en aansoeke by die hof. Sien ook diagram van **PAIA**-versoekvloei, in paragraaf 27 hieronder.

22.1.4 'n Versoeker kan onder andere die volgende beslissing van 'n privaat en/of openbare liggaam betwis -

22.1.4.1 die betaalmiddel of betaling van die versoekfooie;

22.1.4.2 die betaalmiddel of betaling van 'n deposito;

22.1.4.3 die toegangsfooie betaalbaar is buitensporig;

22.1.4.4 die vorm van toegang wat verleen word;

22.1.4.5 die weiering van die versoek;

22.1.4.6 die prosedure (met inbegrip van die tydperk) vir die indiening van die Interne appèl;

22.1.4.7 ontoepaslike tyd uitstel is geneem om te reageer op 'n versoek om toegang;

22.1.4.8 versuim om rekords bekend te maak;

22.1.4.9 die toestaan van 'n versoek om toegang tot 'n rekord;

22.1.4.10 weiering om sodanige versoek toe te staan om fooie oor te sien;

22.2 Interne regsmiddele

22.2.1 Hoe teken 'n versoeker intern appèl aan teen 'n openbare liggaam se beslissing?

22.2.1.1 'n Interne appèl kan slegs ingevolge artikel 74 van **PAIA** by die betrokke owerheid van die nasionale of provinsiale regeringsfeer of enige munisipaliteit in die plaaslike regeringsfeer, na gelang van die geval, ingedien word.³⁰

22.2.1.2 Die Stad Johannesburg is 'n voorbeeld van 'n plaaslike regeringsfeer waarteen 'n interne appèl ingedien kan word. Die Padongelukkefonds of die Reguleerder is 'n voorbeeld van 'n openbare liggaam wat nie deel uitmaak van die nasionale, provinsiale of plaaslike regeringsfeer soos dit deur wetgewing ingestel is nie, en daarom kan 'n interne appèl nie daarteen ingestel word nie.

³⁰ Artikel 74(1) van PAIA

22.2.1.3 Indien 'n versoeker of 'n derde party ontevrede is met 'n besluit geneem deur die Inligtingsbeampte of Adjunk-inligtingsbeampte van 'n nasionale, provinsiale of plaaslike regeringsfeer, het die versoeker of 'n derde party die reg om 'n interne appèl in te dien ingevolge artikel 74(1) of (2) van **PAIA**. Die proses om 'n appèl aanhangig te maak, word voorgeskryf in die PAIA-gids van die betrokke instansie en die wyse waarop 'n interne appèl aangeteken kan word, word ook hieronder uiteengesit.

22.2.1.4 Indien die antwoord van die nasionale, provinsiale of plaaslike regeringsfeer 'n vermeende weiering is, met ander woorde, hy nie binne 30 dae of enige verlengde tydperk op 'n versoek reageer nie, kan die versoeker 'n interne appèl indien volgens die prosesse hierin uiteengesit, voordat die versoeker die Reguleerder of 'n Hof mag nader.

22.3 **Bewaring van rekords totdat 'n finale beslissing oor die versoek finaal bepaal is**

22.3.1 Die Inligtingsbeampte van 'n nasionale, provinsiale of plaaslike regeringsfeer waarop 'n interne appèl van toepassing is, word ingevolge artikel 21 van PAIA vereis om toepaslike stappe te neem wat redelikerwys nodig is om die rekord te bewaar en mag geen versoekte rekord verwyder of vernietig totdat alle of enige verrigtinge in 'n interne appèl of 'n klag by die Reguleerder of 'n aansoek by die hof finaal beslis word nie.

22.3.2 Dit beteken dat die Inligtingsbeampte nie die inligting wat gevra word, kan verwyder of vernietig nie, hangende enige proses wat in paragraaf 22.3.1.1 hierbo voorgeskryf word.

22.4 **Aan wie moet die interne appèl gerig word?**

22.4.1 Alhoewel die appèl deur die betrokke owerheid oorweeg sal word, moet 'n interne appèl gelewer of gestuur word aan die Inligtingsbeampte van die nasionale, provinsiale of plaaslike regeringsfeer, na gelang van die geval, na sy adres, faksnommer of elektroniese posadres, waarvan die kontakbesonderhede in die **PAIA**-gids gevind kan word of soos by die Reguleerder verkrygbaar is.

22.4.2 Die Inligtingsbeampte van die nasionale, provinsiale of plaaslike regeringsfeer, na gelang van die geval, het 'n spesifieke verpligting ingevolge artikel 75 (4) van **PAIA** om die appèl aan die Appèlowerheid voor te lê, tesame met sy redes vir

³¹ Artikel 75(1)(b) van PAIA

die besluit onder appèl. Die indiening van die appèl by die betrokke owerheid moet binne 10 werksdae na ontvangs van die appèl geskied.

22.5 Wie is die betrokke owerheid?

22.5.1 Die betrokke owerheid, hierna "appèlowerheid" genoem, is oor die algemeen die politieke hoof van die betrokke liggaam (hoewel hierdie funksie amptelik gedelegeer kan word) en verwys spesifiek na die volgende persoon -

Openbare Liggaam ("Regering")	Relevante Owerheid ("Appèlowerheid")
Kantoor van die President	Die persoon wat skriftelik deur die President aangewys is, indien enige, anders sal die President die appèlowerheid wees.
Nasionale Departement	Minister verantwoordelik vir daardie Departement, of die persoon wat skriftelik deur die Minister aangewys is.
Kantoor van die Premier	Die persoon wat skriftelik deur die Premier aangewys is.
Provinsiale Departement	Lid van die Uitvoerende Raad (LUR) wat verantwoordelik is vir daardie Provinsiale Departement of die persoon wat skriftelik deur die LUR aangewys is;
Munisipaliteit	Die Burgemeester, die Speaker of enige ander persoon wat skriftelik deur die Munisipale Raad van daardie munisipaliteit aangewys is;

22.5.2 In enige ander geval, waar dit nie die kantoor van die Premier is nie: die lid van die uitvoerende gesag wat verantwoordelik is vir daardie openbare liggaam of die persoon wat skriftelik deur daardie lid aangewys is.

22.5.3 Indien die appèlowerheid die besluit van die Inligtingsbeampte goedkeur, word die interne appèl geweier en die oorspronklike besluit van die Inligtingsbeampte volstaan. Sou die appèlowerheid egter nie saamstem met die besluit van die Inligtingsbeampte nie, dan word die appèl toegestaan en word die oorspronklike besluit omvergewerp.

22.5.4 decision of the Information Officer stands. However, should the appeal authority disagree with the Information Officer's decision, then the appeal is granted and the original decision is overturned.

22.6 Wie kan 'n interne appèl aanteken?

22.6.1 Enige versoeker wie se **PAIA**-versoek om toegang tot die rekords van die nasionale, provinsiale of plaaslike regeringsfeer, na gelang van die geval, geweier is, en van mening is dat een van die appèlgronde in paragraaf 22.2.4 hierbo van toepassing op hul versoek is, het die reg om 'n interne appèl aan te teken.

22.6.2 Derde partye kan ook interne appèlle aanteken teen die besluit wat 'n Inligtingsbeampte geneem het om toegang te verleen tot 'n rekord wat hulle betref. As die interne appèl 'n derde party betrek, moet die appèlowerheid wat die interne appèl ontvang het, daardie derde partye in kennis stel (die verantwoordelikheid skuif dus van die Inligtingsbeampte na die appèlowerheid).

22.7 Periode waarin appèl aangeteken moet word

22.7.1 'n Interne appèl moet aangeteken word- -

22.7.1.1 binne **60 dae**³² nadat die besluit geneem is;

22.7.1.2 binne **30 dae**³³ nadat kennisgewing aan die derde party gegee is van die geappelleerde beslissing

22.7.2 Die aanteken van appèl na bogenoemde tydperk (laat) kan moontlik nie toegelaat word nie, tensy 'n geldige rede vir laat wees aan die appèlowerheid verskaf word. Byvoorbeeld, om langer as 60 dae in die hospitaal opgeneem te word, kan as geldige redes om laat te wees aanvaar word.

22.7.3 Sou die appèlowerheid nie die laat indiening van 'n interne appèl aanvaar nie, moet dit aan u redes verstrek waarom die appèl van die hand te gewys is en moet dit ook leiding bied van enige addisionele inligting, indien nodig, om die appèl te aanvaar. Die appèlowerheid moet u ook adviseer oor die proses om 'n klag teen hul beslissing by die Reguleerder of 'n hof in te dien.

³² Artikel 75(1)(a)(i) van PAIA

³³ Artikel 75(1)(a)(ii) van PAIA

22.7.4 Soos hierbo aangedui, moet u appèl binne 10 werksdae na ontvangs van 'n interne appèl³⁴ deur die Inligtingsbeampte by die appèlowerheid ingedien word.

22.8 Kennisgewing van appèl deur appèlowerheid aan die versoeker of derde party

22.8.1 Die appèlowerheid moet so gou as wat dit redelik moontlik is, maar in elk geval binne 30 dae na ontvangs van die interne appèl³⁵, daarvan kennis gee aan -

22.8.1.1 die derde party aan wie die rekord onder appèl behoort, of

22.8.1.2 die versoeker oor die interne appèl teen die toestaan van 'n versoek om toegang.

22.8.2 'n Versoeker of 'n derde party aan wie kennisgewing gegee word, kan binne 21 dae nadat die kennisgewing gegee is, skriftelik vertoë aan die appèlowerheid rig waarom die versoek om toegang toegestaan moet word of nie.

22.9 Beslissing oor die interne appèl en kennisgewing daarvan³⁶

22.9.1 Die appèlowerheid moet die interne appèl so spoedig moontlik redelikerwys beslis, maar in elk geval binne 30 dae:

22.9.1.1 nadat die Inligtingsbeampte van 'n liggaam die interne appèl ontvang het;

22.9.1.2 nadat 'n derde party in kennis gestel is, soos aangedui in paragraaf 22.3.6.1 hierbo.

22.9.2 Die beslissing van die appèlowerheid moet aan die appellant, derde party en die versoeker meegedeel word. Die beslissing van die appèlowerheid moet gepaard gaan met voldoende redes vir die beslissing, insluitend die voorsiening van **PAIA** of **POPIA** waarop gesteun word.

22.9.3 Indien die appèlowerheid versuim om binne 30 dae kennis te gee van die beslissing oor 'n interne appèl, word die appèl geweier vermeen en kan die versoeker voortgaan om 'n klag by die Reguleerder in te dien of die hof te nader vir toepaslike verligting.³⁷

³⁴ Artikel 75(4) van PAIA

³⁵ Artikel 76(2)(a) van PAIA

³⁶ Artikel 77 van PAIA

³⁷ Artikel 77(7) van PAIA

22.10 Voltooiing van die interne appèl - Vorm 4

- 22.10.1 Ten einde enige beslissing van 'n nasionale, provinsiale of plaaslike regeringsfeer te appelleer, moet die versoeker sy interne appèl aanteken deur Vorm 4 in te vul. Vorm 4 moet ingedien word by die Inligtingsbeampte van die betrokke regeringsfeer, wie dan verplig word om dit aan die appèlowerheid te stuur, soos hierbo vermeld.
- 22.10.2 Vorm 4 is beskikbaar op die Reguleerder se webblad, <https://www.justice.gov.za/inforeg/>, sowel as die webwerf van die betrokke regeringsfeer.
- 22.10.3 Die Inligtingsbeampte of Adjunk-inligtingsbeampte van die betrokke regeringsfeer is nie uitdruklik verplig om die versoeker te help om die interne appèlvorm in te vul nie; die versoeker kan egter steeds die inligtingsbeampte versoek om hom in hierdie verband te help.
- 22.10.4 Hieronder is die stapsgewyse proses om die interne appèl vorm te voltooi -

Vereiste Inligting	Beskrywing
Besonderhede van openbare liggaam	Hierdie afdeling moet die naam van die betrokke nasionale, provinsiale of plaaslike regeringsfeer bevat en die Inligtingsbeampte se naam en van.
Besonderhede van die appellant wat die interne appèl aanteken	Hierdie afdeling moet deur die appellant voltooi word, hetsy in verteenwoordigende hoedanigheid al dan nie. Die volle naam en van, identiteitsnommer en die hoedanigheid waarin 'n interne appèl namens 'n ander persoon ingestel moet word, indien van toepassing, moet verstrek word. Indien die appèl in 'n persoonlike hoedanigheid aangeteken word, moet sodanige hoedanigheid aangeteken word. Addisionele inligting wat vereis word, sluit in die besonderhede van die versoeker:

Vereiste Inligting	Beskrywing
	posadres, e-pos, faks en/of telefoonnommer. Hierdie inligting moet dieselfde wees as in die oorspronklike versoek. Indien die persoon wat die vorm in vul, die verteenwoordiger van die versoeker is, moet bewys van die hoedanigheid waarin die appèl ingedien word by hierdie vorm aangeheg word.
Besonderhede van die persoon namens wie die versoek gerig word (Indien deur 'n derde party gerig)	Hierdie gedeelte hoef slegs voltooi te word deur iemand wat inligting vir 'n ander persoon vra. Indien die persoon wat die interne appèl indien nie die persoon is wat aanvanklik die inligting aangevra het nie, moet net die besonderhede van die versoeker hierin verstrekkend word. As die versoek in 'n persoonlike hoedanigheid is, hoef hierdie afdeling nie voltooi te word nie.
Die besluit waarteen die interne appèl aangeteken word	Die vorm bied ruimte vir die versoeker om met 'n 'x' aan te dui watter van die genoemde appèlgronde op die appèl van toepassing is.
Gronde vir appèl	Onder hierdie afdeling, word die versoeker vereis om 'n omvattende beskrywing te gee waarom hy meen dat die gronde vir appèl van toepassing is. Hy word vereis om redes(s) te gee waarom hy meen dat die besluit van die Inligtingsbeampte nie korrek is nie. Hy moet ook enige dokumente wat die appèl ondersteun, aanheg. Die lys van redes waarom die appèl ondersteun word, kan op 'n aparte bladsy in meer besonderhede uiteengesit word as die spasie in die vorm nie voldoende is nie. Die addisionele bladsye wat ingedien word, moet onderteken word.

Vereiste Inligting

Beskrywing

Daar moet voldoende redes wees en ondersteunende inligting om die appèlowerheid in staat te stel om 'n ingeligte besluit te neem. Daarom moet u ook 'n uiteensetting van alles wat gebeur het in die aanloop tot die interne appèl insluit. 'n Mens kan op 'n aparte bladsy verwys na spesifieke afdelings van **PAIA** as 'n grondslag vir die appèl.

Kennisgewing van die beslissing op die appèl

'n Ruimte word gegee vir 'n beskrywing van die wyse waarop die beslissing gestuur moet word, byvoorbeeld deur die pos, faks of e-pos of per koerier. Kies asseblief die verkose wyse van kennisgewing.

22.10.5 Alhoewel daar geen verbod is op die verkryging van 'n prokureur in enige stadium van die versoek om inligting nie, is die verskillende **PAIA**-prosesse bedoel om gebruikersvriendelik te wees, wat die behoefte aan 'n prokureur en die aangaan van regskostes verwyder.

23. KLAGTE AAN DIE INLIGTINGSREGULEERDER

- 23.1 'n Versoeker of derde party mag slegs 'n klag by die Reguleerder indien nadat die versoeker of derde party die interne appèlprosedure teen 'n beslissing van die Inligtingsbeampte van 'n nasionale, provinsiale of plaaslike regeringsfeer uitgeput het. Dit beteken dat 'n mens 'n klag teen 'n bepaalde regeringsfeer slegs by die Reguleerder kan indien in die geval dat u ontevrede is met die beslissing van die appèlowerheid. Die Reguleerder sal die klag van die hand wys indien 'n appèlproses na die betrokke regeringsfeer nie afgehandel is nie.
- 23.2 Hoewel, ten opsigte van 'n openbare liggaam (waarvoor 'n interne appèl nie van toepassing is nie) en 'n privaat liggaam, kan 'n versoeker of derde party egter 'n klag by die Reguleerder indien, indien dit nie tevrede is met die beslissing van die betrokke liggaam nie.
- 23.3 'n Klag aan die Reguleerder deur 'n versoeker of derde party moet binne 180 dae na ontvangs van die beslissing van die liggaam ingedien word.

23.4 'n Versoeker kan 'n klag indien by die Reguleerder, indien ontevrede met -

23.4.1 Die uitslag van 'n interne appèl by die appèlowerheid van enige regeringsfeer;

23.4.2 'n beslissing van die appèlowerheid om nie laat aantekening van 'n interne appèl toe te staan nie;

23.4.3 'n besluit van die Inligtingsbeampte van 'n openbare liggaam wat nie deel is van 'n sfeer van regering om -

23.4.3.1 'n versoek om toegang te weier; of

23.4.3.2 die tydperk om met die versoek te handel te verleng; of

23.4.3.3 toegang in 'n bepaalde vorm toe te staan.

23.4.4 'n besluit van die hoof van 'n privaat liggaam om -

23.4.4.1 'n versoek om toegang te weier; of

23.4.4.2 betaling te eis vir die versoek fooi, of 'n deposito van die toegangsfooi; of

23.4.4.3 die tydperk om met die versoek te handel te verleng; of

23.4.4.4 toegang in 'n bepaalde vorm toe te staan.

23.5 'n Derde party kan 'n klag by die Reguleerder indien, indien nie gelukkig met -

23.5.1 die uitslag van 'n interne appèl by die appèlowerheid van die betrokke regeringsfeer;

23.5.2 'n besluit van die Inligtingsbeampte van 'n openbare liggaam wat nie deel is van 'n sfeer van die regering om 'n versoek om toegang; of

23.5.3 'n besluit van die hoof van 'n privaat liggaam om toegang te verleen tot inligting van daardie liggaam,

23.6 Hoe kla mens by die Reguleerder?

- 23.6.1 'n Klagte aan die reguleerder moet skriftelik gerig word en 'n klagvorm moet voltooi word, hetsy met die hand of aanlyn. 'n Klagvorm, Vorm 5 kan van die Reguleerder se webtuiste afgelaai word, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Dit beteken dat die Reguleerder nie 'n klagte telefonies sal aanvaar nie; daar word egter van die Reguleerder verwag om redelike hulp te verleen aan enige persoon wat 'n klag wil indien en dit sluit hulp in met die invul van 'n klagvorm.
- 23.6.3 As u die beslissing van die Inligtingsbeampte van 'n private liggaam betwis, moet u voldoende bewyse lewer om te bewys dat die aangevraagde rekord benodig word vir die uitoefening of beskerming van enige ander reg(te). Toegang tot die rekords van 'n privaat liggaam kan slegs verleen word as u kan bewys dat u van plan is om enige ander reg(te) uit te oefen of te beskerm met die gevraagde rekord.

23.7 Wat gebeur na ontvangs van die klagte

- 23.7.1 By ontvangs van 'n klagte moet die reguleerder -
- 23.7.1.1 Die klag ondersoek en sy bevindinge aan die Afdwingingskomitee verwys vir 'n beslissing; of
 - 23.7.1.2 Geen aksie op die klag neem te wyte aan die feit dat -
 - 23.7.1.2.1 die klagte nie binne die tydperk van 180 dae ingedien is nie en daar is geen redelike gronde is om die laat indiening van 'n klagte toe te laat nie.
 - 23.7.1.2.2 die klagte is nietig of kwelsugtig of nie te goeder trou nie; of
 - 23.7.1.2.3 met inagneming van al die omstandighede van die geval, is enige verdere optrede onnodig of onvanpas. Die aangevraagde inligting is byvoorbeeld in die openbaar beskikbaar gestel.
 - 23.7.1.3 waar toepaslik, die beste probeer om so 'n skikking te bewerkstellig of die partye te help om hul geskil (le) te besleg; en

23.7.1.4 die klaer en die Inligtingsbeampte, op wie die klagte betrekking het, in kennis te stel van die aksie wat gevolg moet word.

23.8 Reguleerder se eerste mededeling aan die klaer en Inligtingsbeampte rakende die klag wat ingedien is

23.8.1 As die Reguleerder besluit om nie verder op te tree teen die klagte nie, sal die Reguleerder die versoeker in kennis stel van die besluit en die redes waarom hy nie verder opgetree het nie.

23.8.2 As die Reguleerder besluit om 'n klag te ondersoek, sal die versoeker 'n brief ontvang waarin hy in kennis gestel word dat die Reguleerder besluit het om 'n ondersoek te doen.

23.8.3 Na ontvangs van 'n klagte sal die Reguleerder die besonderhede van die klagte aan die Inligtingsbeampte van die betrokke liggaam stuur, en hom versoek om 'n skriftelike antwoord op die klag by die Reguleerder in te dien.

23.9 Onderzoekende bevoegdhede van die reguleerder

23.9.1 Die Reguleerder het, ingevolge artikel 77G (2) van **PAIA**, die bevoegdheid om -

23.9.1.1 sy beste pogings aanwend om sodanige skikking te beveilig;

23.9.1.2 mense dagvaar om voor die Reguleerder te verskyn en dit af te dwing;

23.9.1.3 hulle verplig om mondelinge of geskrewe getuienis onder eed te lewer en om enige rekords op te lewer;

23.9.1.4 ontvang en aanvaar enige bewyslewering en ander inligting, hetsy onder eed of deur beëdigde verklaring;

23.9.1.5 enige perseel wat deur die verantwoordelike party beset word te betree en visenteer;

23.9.1.6 'n persoonlike onderhoud te voer met enige persoon op enige perseel wat betree word; en

23.9.1.7 voer enige navrae wat die Reguleerder gepaslik vind op daardie persele.

23.10 Evaluering van voldoening aan die bepalings van PAIA

- 23.10.1 Die Reguleerder kan 'n assessering uitvoer of 'n openbare of private liggaam in die algemeen aan die bepalings van **PAIA** voldoen.
- 23.10.2 Die Reguleerder kan willekeurig 'n nakomingsbeoordeling op 'n liggaam doen, uit eie wil, maar die Reguleerder kan die nakomingsbeoordeling ook op versoek deur of namens die Inligtingsbeampte van 'n liggaam of enige ander persoon uitvoer. Dit beteken dat enige persoon die Reguleerder kan versoek om nakomingsbeoordeling op 'n liggaam te doen. 'n Persoon kan ook 'n anonieme versoek indien om 'n nakomingsbeoordeling uit te voer deur aan te dui dat hy of sy versoek om anoniem te bly.
- 23.10.3 Die Reguleerder sal die persoon wat die assessering aangevra het, die assesseringsverslag en 'n aanbeveling van die aksie, indien enige, voorsien.

23.11 Inligtingskennisgewing

Die Reguleerder kan die Inligtingsbeampte van 'n instansie met 'n Inligtingskennisgewing dien wat van die party vereis om die Reguleerder te voorsien met die inligting wat in die kennisgewing gespesifiseer word. Byvoorbeeld, as 'n klag wat by die Reguleerder ingedien word, betrekking het op die weiering van toegang gebaseer op enige van die vrygestelde gronde, kan die Reguleerder in 'n Inligtingskennisgewing afskrifte van die rekords waartoe toegang geweier is, versoek om te bepaal of die redes vir weiering geldig is al dan nie.

23.12 Vestiging van die Afdwingingskomitee

- 23.12.1 Die Reguleerder word verplig om 'n Afdwingingskomitee³⁸ te vestig, wat bevoegdhede het om -
 - 23.12.1.1 alle aangeleenthede wat die Reguleerder in terme van **PAIA** daarna verwys, oorweeg en 'n bevinding daaroor maak; en
 - 23.12.1.1 enige aanbevelings te maak aan die Reguleerder rakende enige stappe wat teen die Inligtingsbeampte van 'n liggaam geneem moet word.

23.13 Afdwingingskennisgewing

- 23.12.1 Die Reguleerder kan, na oorweging van die aanbevelings van die afdwingingskomitee, die Inligtingsbeampte van 'n liggaam dien met 'n afdwingingskennisgewing -

³⁸ Artikel 50 van POPI

23.13.1.1 bevestiging, wysiging of tersydestelling van die beslissing waaroor die klag betrekking het; of

23.13.1.1 vereis dat die Inligtingsbeampte sodanige stappe moet neem of dat hy nie die stappe sal neem soos die Inligtingsreguleerder in die kennisgewing bepaal nie.

23.14 Wat is die gevolge vir die verontagsaming van afdwingingskennisgewings?

23.14.1 'n Inligtingsbeampte van 'n liggaam wat weier om aan 'n afdwingingskennisgewing te voldoen, is skuldig aan 'n misdryf en is op skuldigbevinding onderhewig aan 'n boete of tot gevangenisstraf van hoogstens drie jaar of aan beide 'n boete en gevangenisstraf.

23.14.2 Artikel 77K van **PAIA** dui op die belangrikheid van die reg op toegang tot inligting of rekords. Hierdie afdeling versterk ook die belangrikheid van die Reguleerder vir die bevordering van die reg op toegang tot inligting.

24. AANSOEK BY DIE HOF

24.1 Wie kan 'n aansoek teen die beslissing by die hof indien?

24.1.1 'n Versoeker of derde party mag slegs in die volgende omstandighede by die hof aansoek doen om toepaslike verligting ingevolge artikel 82:

24.1.1.1 Nadat die versoeker of derde party die interne appèlproses waarna in paragraaf **22.3** hierbo verwys word, uitgeput het; of

24.1.1.2 nadat die versoeker of derde party die klagteprosedure waarna in artikel 77A verwys word, uitgeput het.

24.1.2 Ingevolge artikel 78 (1) van **PAIA** het 'n versoeker of 'n derde party twee opsies, óf om 'n beslissing in paragrawe 22.2.4, 23.4 en 23.5 hierbo na die Reguleerder of die hof te verwys. Alhoewel u nie verplig is om die Reguleerder te nader voordat u die hof nader nie, is dit raadsaam om te oorweeg om die Reguleerder te nader, aangesien die Reguleerder uitgebreide en vinnige meganismes vir dispuutoplossing het, teenoor die hof.

24.1.3 Vir die hof om egter die saak te beredder, moet 'n versoeker of 'n derde party -

24.1.3.1 gegrief wees deur een van die besluite, gelys in paragraaf 22.2.4, 23.4 of 23.5 hierbo; of

24.1.3.2 die klagteprosedure met die Reguleerder uitgeput het of die klag by die Reguleerder terugtrek. Dit beteken dat 'n mens nie die hof kan nader as die klag nog by die Reguleerder aanhangig is nie.

24.1.4 As u die beslissing van 'n Inligtingsbeampte van 'n private liggaam betwis, moet u voldoende bewyse lewer om te bewys dat die aangevraagde rekord vereis word vir die uitoefening of beskerming van enige ander reg(te) is.

24.2 Wanneer kan 'n mens 'n aansoek aanhangig maak teen die beslissing van 'n liggaam of Reguleerder?

24.2.1 'n Aansoek by die hof deur 'n versoeker of derde party, wat óf onsuksesvol was in 'n interne appèl tot die appèlowerheid van die betrokke regeringsfeer óf gegrief is deur 'n beslissing van die Inligtingsbeampte van 'n liggaam (gelys in 22.2.4, 23.4 of 23.5 hierbo) of die van die Reguleerder moet binne 180 dae vanaf die datum van die betrokke gebeurtenis ingedien word.

24.2.2 Die Inligtingsbeampte van 'n liggaam of appèlowerheid van 'n regering, na gelang van die geval, gegrief deur 'n beslissing van die Reguleerder, kan binne 180 dae by die hof aansoek doen om toepaslike verligting ingevolge artikel 82.³⁹

24.2.3 'n Versoeker, derde party, of 'n liggaam, kan by die hof aansoek doen om die beslissings waaroor hulle gegrief word, deur die hof te laat hersien.

24.2.4 'n Aansoek by die hof ingevolge **PAIA** word deur middel van 'n siviele prosedure gedoen en moet as 'n laaste uitweg gebruik word.

24.2.5 Sake vir toegang tot inligting kan voor die landdroshof aangehoor word, as 'n hof van eerste aanleg, en die hooggeregshof wat jurisdiksie het.⁴⁰

24.2.6 Versuim om die aansoek binne 'n tydperk van 180 dae in te dien, kan deur die hof goedgekeur word as dit blyk dat die belange van

³⁹ Artikel 78(4) van PAIA

⁴⁰ Artikel 91A van PAIA en die Bevordering van toegang tot inligting, Reëls, 2019

geregtigheid dit vereis. As die rekords waartoe toegang gevra word, u sal help om aansoek te doen vir 'n appèl teen gevangenisstraf, of iemand help om verdere mediese aandag te kry, sal die hof waarskynlik kondonasie in hierdie verband verleen.

24.2.7 'n Aansoek kan ingedien word volgens die prosedure uiteengesit in reël 53 van die hooggeregshofreëls of kragtens reël 55 van die landdroshofreëls indien geen of 'n onvolledige rekords deur die administrateur verstrekkend is.

24.2.8 As die rekord reeds verstrekkend is, moet die aansoek ingedien word ingevolge reël 55, landdroshofreëls, met dien verstande dat indien die applikant rede het om te glo dat die administrateur nie die volledige rekord van die verrigtinge verskaf het nie, die versoeker kan volgens die prosedure soos uiteengesit in Reël 53 van die hooggeregshofreëls, tydens sy verkiesing voortgaan, maar moet in sy funderende eedsverklaring aandui waarom daar rede is om te glo dat die volledige rekord nie verskaf is nie.

24.3 **Wat is die regstatus van die Reguleerder se beslissing hangende die beslissing van die Hof?**

Die bevoegdhede van die Reguleerder is hoofsaaklik afkomstig van die Grondwet, **POPIA** en **PAIA**. Gevolglik het die afdwingingskennisgewing wat deur die Reguleerder uitgereik is, regsgevolge en is dit dus bindend tot tyd en wyl die hof anders beslis het. Die beslissings van die Reguleerder is dus effektief en afdwingbaar, tensy die betrokke hof anders bepaal.

24.4 **Wat is die bevel wat die hof kan verhoor?**

24.4.1 Die hof (landdros-of hooggeregshof) wat 'n aansoek verhoor, kan die volgende bevel maak: -

24.4.4.1 die besluit van die Inligtingsbeampste, of die appèlowerheid of Inligtingsreguleerder, bevestig, wysig of tersyde stel;

24.4.4.2 van die Inligtingsbeampste of appèlowerheid vereis om sodanige stappe te neem of om nie sodanige stappe te neem soos wat die hof nodig ag binne 'n tydperk wat in die bevel genoem word nie;⁴¹

24.4.4.3 'n interdik, tussentydse of spesifieke verligting, 'n verklarende bevel of 'n bevel tot vergoeding toestaan;

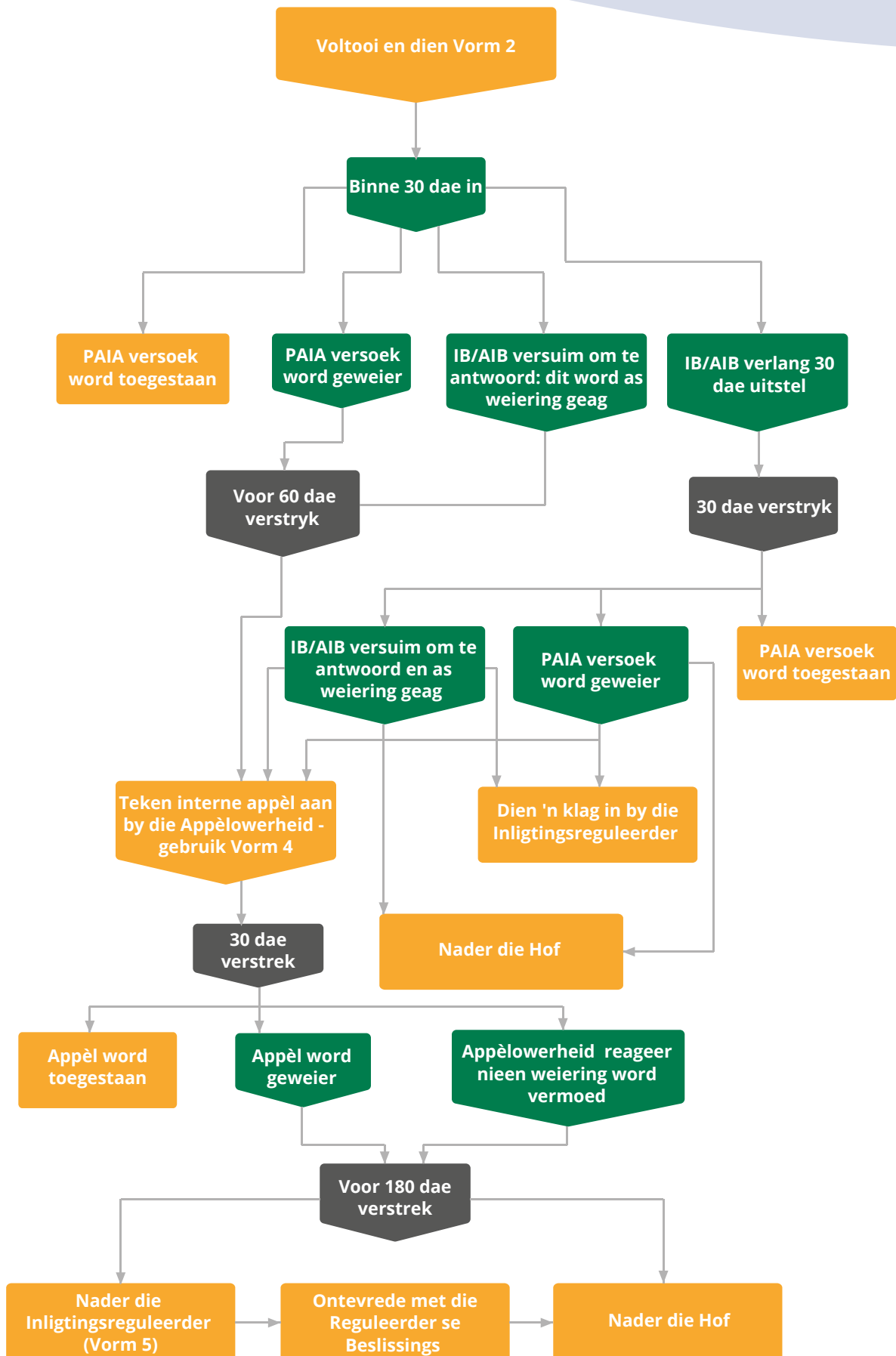
⁴¹ Reël 4 Bevordering van toegang tot inligting, Reëls, 2019

24.4.4.4 'n kostebevel teen enige party maak;

24.4.4.5 In die belang van geregtigheid moet u die nie-nakoming van die tydperk van 180 dae waarbinne u aansoek kan indien, goedkeur. Soos hierbo aangedui, moet voldoende redes vir die versuim om die voorgeskrewe tydperk na te kom in die meegaande aansoek om kondonاسie volledig uiteengesit word.

25. DIAGRAM VAN DIE PAIA VERSOEKPROSES

Raadpleeg die stapsgewyse vloei van die prosesvloeikaart oor die prosesse wat gevolg moet word wanneer u die reg op toegang tot inligting uitoefen.



26. REGULASIES KRAGTENS ARTIKEL 92 VAN PAIA

- 26.1 In ooreenstemming met artikel 92(1) en 92(4) van **PAIA**, het die Minister regulasies uitgevaardig met betrekking tot die Bevordering van Toegang tot Inligting, wat die volgende aangeleenthede dek
- 26.1.1 Verpligtinge van die Inligtingsreguleerder (**regulasie 2**);
 - 26.1.2 Verpligtinge van Inligtingsbeamptes (**regulasie 3**)
 - 26.1.3 Outomatiese beskikbaarheid van sekere rekords van openbare liggame (**regulasie 4**)
 - 26.1.4 Vrywillige openbaarmaking en outomatiese beskikbaarheid van sekere rekords van 'n privaat liggame (**regulasie 5**)
 - 26.1.5 Versoek om toegang tot inligting wat deur openbare en private liggame bewaar word (**regulasie 6**)
 - 26.1.6 Uitkoms van die versoek en fooie betaalbaar (**regulasie 7**)
 - 26.1.7 Interne appèl teen 'n beslissing deur 'n openbare liggaam (**regulasie 8**)
 - 26.1.8 Klagrigting aan die Inligtingsreguleerder (**regulasie 9**)
 - 26.1.9 Die prosedure vir die ondersoek van 'n klagte (**regulasie 10**)
 - 26.1.10 Skikking van aangeleenthede (**regulasie 11**)
 - 26.1.11 Konsillasie van die saak (**regulasie 12**)
 - 26.1.12 Voldoeningsassessering deur die Inligtingsreguleerder in reaksie op 'n versoek (**regulasie 13**)
 - 26.1.13 Misdrywe en strawwe (**regulasie 14**)
 - 26.1.14 **Electronic communication (Regulation 15)**
 - 26.1.15 **Offences and penalties (Regulation 16)**
- 26.2 Ingevolge artikel 79 (1) van **PAIA**, het die Reëlraad vir Howe met die goedkeuring van die Minister reëlins vir die prosedure gemaak vir -
- 26.2.1 'n hof ten opsigte van aansoeke ingevolge artikel 78 van **PAIA**; ingevolge artikel 79 (1) van **PAIA**, het die Reëlraad vir Howe met die goedkeuring van die Minister reëlins vir die prosedure gemaak vir -
 - 26.2.2 'n hof om ex parte verhoë oorgebring op artikel 80(3)(a) te ontvang.

27. SLEUTELWETGEWINGS, REGULASIES , KENNISGEWINGS EN ERKENNING

Wette wat van tyd tot tyd gewysig kan word

Wet op Bevordering van Toegang tot Inligting, Wet 2 van 2000

Wet op Bevordering van Administratiewe Geregtigheid, Wet 3 van 2000

Wet op Bevordering van Toegang tot Inligting Wysigingswet, Wet 54 van 2002

Wet op Beskerming van Persoonlike Inligting, Wet 4 van 2013

Wet op Bevordering van Toegang tot Inligting, Wet 31 van 2019

Wet op die Befondsing van Politieke Partye, Wet 6 van 2018

Regulasies en Kennisgewings

Goewermentskennisgewing	Datum van publikasies	Onderwerp en beskrywing
Goewermentskennisgewing R.757 in SK No 45057	27 Augustus 2021	Wet op Bevordering van Toegang tot Inligting, 2000 (Wet 2 van 2000): regulasies met betrekking tot die bevordering van toegang tot inligting, 2020
Goewermentskennisgewing R.991 in GG 28107	14 Oktober 2005	Regulasies wat die gronde voorskryf waarop iemand vrygestel is van die betaling van fooie.
Goewermentskennisgewing 397 in SK No 44785	30 Junie 2021	Vrystelling van die saamstel van 'n PAIA -handleiding vir sekere privaat liggame.
Goewermentskennisgewing 1217 in GG 42717	19 September 2019	Aanwysing van landdroshowe as beskikkend oor die vermoë om PAIA -aangeleenthede aan te hoor.
Goewermentskennisgewing R. 1284 in GG 42740	4 Oktober 2019	Reëls van prosedure vir aansoeke wat gemaak moet word ingevolge PAIA voor die Hooggeregshof of Landdroshof.

ERKENNING

Hierdie bygewerkte gids oor hoe om die **PAIA**-wet te gebruik, was oorspronklik opgestel deur die Suid-Afrikaanse Menseregtekommissie (SAMRK) en die Reguleerder erken hiermee die oorspronklike werk van die SAMRK, met inbegrip van al sy bronne.

Uitgereik deur

INLIGTINGSREGULEERDER

AANGANGSEL B GELDE BETAALBAAR

Gelde betaalbaar ten opsigte van Openbare Liggame

Item	Beskrywing	Bedrag
1.	Die versoekgeld betaalbaar deur enige versoeker	R100.00
2.	Fotokopie van A4-grootte bladsy	R1.50 per bladsy of gedeelte daarvan.
3.	Gedrukte afskrif van A4-grootte bladsy	R1.50 per bladsy of gedeelte daarvan.
4.	Afskrif in 'n rekenaarleesbare vorm op: (i) Geheuestokkie (deur versoeker voorsien) (ii) Kompakskyf - Indien deur versoeker verskaf - Indie naan versoeker verskaf	R40.00 R40.00 R60.00
5.	Vir 'n transkripsie van visuele beelde per A4-grootte bladsy	Diens sal uitbestee word. Sal afhang van kwotasie van diensverskaffer.
6.	Afskrif van visuele beelde	
7.	Transkripsie van 'n oudiorekord, per A4-grootte bladsy	R24.00
8.	Kopie van 'n oudiorekord (i) Op geheuestokkie (voorsien te word deur versoeker) (ii) Op kompakskyf - Indien deur versoeker verskaf - Indien aan versoeker verskaf	R40.00 R40.00 R60.00
9.	Om 'n record te soek en voor te berei vir bekendmaking vir elke uur of gedeelte van 'n uur, met uitsluiting van die eerste uur, redelikerwys vereis vir die soek en voorbereiding, ten einde nie 'n total bedrag van te oorskry nie	R100.00 R300.00
10.	Deposito: As soektog langer as 6 ure duur	Een-derde van bedrag per versoek ingevolge items 2 to 9 bereken.
11.	Posgeld, e-pos of enige ander elektroniese oordrag	Werklike koste.

Gelde betaalbaar ten opsigte van Privaat Liggame

Item	Beskrywing	Amount
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1.	Die versoekgeld betaalbaar deur enige versoeker	R140.00
2.	Fotokopie van A4-grootte bladsy	R2.00 per bladsy of gedeelte daarvan.
3.	Gedrukte afskrif van A4-grootte bladsy	R2.00 per bladsy of gedeelte daarvan.
4.	Afskrif in 'n rekenaarleesbare vorm op: (ii) Geheuestokkie (deur versoeker voorsien) (iv) Op kompakskyf • Indien deur versoeker verskaf • Indien aan versoeker verskaf	R40.00 R40.00 R60.00
5.	Vir 'n transkripsie van visuele beelde per A4-grootte bladsy	Diens sal uitbestee word, Sal afhang van kwotasie van diensverskaffer.
6.	Afskrif van visuele beelde	
7.	Transkripsie van oudiorekord, per A4-grootte bladsy	R24.00
8.	Kopie van 'n oudiorekord (v) Op gehuestokkie (voorsien te word deur versoeker) (vi) Op kompakskyf • Indien deur versoeker verskaf • Indien aan versoeker verskaf	R40.00 R40.00 R60.00
9.	Om 'n rekord te soek en voor te berei vir bekendmaking vir elke uur of gedeelte van 'n uur, met uitsluiting van die eerste uur, redelikerwys vereis vir die soek en voorbereiding, ten einde nie 'n totale bedrag van te oorskry nie.	R145.00 R435.00
10.	Deposito: As soektog langer as 6 ure duur	Een-derde van bedrag per versoek ingevolge items 2 to 9 bereken.
11.	Posgeld, e-pos of enige ander elektroniese oordrag	Werklike koste."