



PROMOTION OF ACCESS TO INFORMATION MANUAL OF POSWA INCORPORATED ATTORNEYS

“THE RESPONSIBLE PARTY”

1. VERSION CONTROL

Version number	Version date	Summary of changes made
1	25 June 2021	Main Manual drafted

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2. INTRODUCTION

On 23 November 2001, The Promotion of Access to Information Act No. 2 of 2000, ("the Act") came into operation. Section 51 of the Act requires that we as a private body compile a manual providing information to the public regarding the procedure to be followed in requesting information from us for the purpose of exercising or protecting the rights of those requesters. When a request is made in terms of the Act, there is an obligation to release the information, except in circumstances whereby the Act expressly provides that the information must not be released or may be withheld. The Act stipulates the required procedures in order to process any request for information.

Members of the public will be able to review the categories of information which we possess and which they can obtain access to and how.

A copy of this manual is also available on our website: www.poswainc.com

3. CONTACT DETAILS

3.1 Name of Private Body: Poswa Incorporated

Physical Address: First Floor Poswa House
No.8 Gemsbok Lane, Rivonia
Extension 12 Sandton
2128

Postal Address: Postnet Suite 128
Private Bag X9 Benmore

3.2 Head of Private Body: Nima Pravin Gagjee

Telephone: 011 783 8877
Facsimile: 086 639 8368
E-mail: nima.gagjee@poswainc.co.za

3.3 Designated Information Officer: Nima Pravin Gagjee

Telephone: 011 783 8877
Facsimile: 086 639 8368
E-mail: nima.gagjee@poswainc.co.za

3.4 Designated Deputy Information Officer: N/A

Telephone:

Facsimile:

E-mail:

4. THE ACT

The Act grants a requester access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.

Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.

Requesters are referred to the guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights. The guide is available from the SAHRC.

The contact details of the Commission are:

Postal Address: Private Bag 2700, Houghton, 2041

Telephone Number: +27 11 877 3600

Fax Number: +27 11 403 0625

Website: www.sahrc.org.za

5. RECORDS OF THE RESPONSIBLE PARTY

This section serves as a reference to the records we hold in order to facilitate a request in terms of the Act.

It is recorded that the accessibility of the documents listed below, may be subject to the grounds of refusal set out hereinafter and in the Act.

The information is classified and grouped according to records relating to the following subjects and categories.

6. AUTOMATICALLY AVAILABLE RECORDS

Records that are automatically available to the public are all records of the Responsible Party lodged in terms of government requirements with various regulatory and statutory

bodies, including the Registrar of Companies, and the Registrar of Deeds etc. Other records include but are not limited to:

- Website information
- Brochures
- Pamphlets
- General Marketing campaigns

7. NON-AUTOMATICALLY AVAILABLE RECORDS

Internal Company Records

- Operational records;
- Product & service records;
- Records held by officers of the Responsible Party;
- Statutory records;
- Taxation;
- Agreements and contracts;
- Databases;
- Financial records;
- Fixed, movable and intellectual property;
- Information technology
- Insurance;
- Outcomes of internal disciplinary hearings or grievance hearings as these are the intellectual property of the Company;
- Internal correspondence;
- Internal policies and procedures; and
- Marketing records.

Human Resource Records

This includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff, as well as contract workers.

- Internal evaluation records and performance appraisals;
- Personal records provided by and to personnel;
- Records provided by a third party relating to personnel;
- Conditions of employment and other personnel-related contractual and legal records;
- Correspondence relating to personnel; and
- Training schedules and materials.

Client Related Records

This refers to any natural or juristic entity that utilises the products and services of the Responsible Party and includes:

- Records and correspondence provided by clients;
- Records provided by a client to a third party or outsourced service provider acting for or on behalf of the Responsible Party;
- Records provided by a third party of a client;

- Any other client related record generated through the lifetime of the relationship or thereafter.

8. OTHER PARTY RECORDS

These include:

- Internal Company Records, Human Resource, or Client records that are held by another party, as opposed to the records held by the Responsible Party;
- Records held by the Responsible Party pertaining to other parties, including without limitation, financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.
- the Responsible Party may possess records pertaining to other parties, including without limitation, contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers. Alternatively, such other parties may possess records that can be said to belong to the Responsible Party.

It is recorded that the accessibility of the records and documents listed above, may be subject to the grounds of refusal as set out in this manual below.

9. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

The main grounds for the Responsible Party to refuse a request for information relates to the –

- mandatory protection of the privacy of a third party who is a natural person, which would involve
- the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
 - trade secrets of that third party;
 - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
 - information disclosed in confidence by a third party to the Responsible Party, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.

Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;

- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records that would be regarded as privileged in legal proceedings;
- the commercial activities of the Responsible Party, which may include:
 - trade secrets;
 - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the Responsible Party;

- information, which, if disclosed, could put the Responsible Party at a disadvantage in negotiations or commercial competition;
- a computer programme which is owned by the Responsible Party, and which is protected by copyright.

The research information of the Responsible Party or a third party, if its disclosure would disclose the identity of the Responsible Party, the researcher or the subject matter of the research, and would place the research at a serious disadvantage.

Requests for information that are clearly frivolous or vexatious or which involve an unreasonable diversion of resources shall be refused.

10. REMEDIES IN CASE OF INFORMATION REQUEST DENIAL

Internal Remedies

The decision made by the Information Officer is final and requesters will have to exercise such external remedies at their disposal if the request for information is refused and the requester is not satisfied with the answer supplied by the Information Officer.

External Remedies

A requester that is dissatisfied with the information officer's refusal to disclose information, may within 30 calendar days of notification of the decision, apply to a Court for relief.

Likewise, a third party dissatisfied with the information officer's decision to grant a request for information, may within 30 calendar days of notification of the decision, apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

11. ACCESS TO RECORDS PROCEDURE

The requester must comply with all the procedural requirements contained in the Act relating to the request for access to any of the above categories of information.

The requester must complete the prescribed form in Appendix "1" enclosed herewith, and submit same as well as payment of a request fee and a deposit, if applicable, to the information officer or the designated deputy information officer, at the postal or physical address, facsimile number or electronic mail address.

The prescribed form which is also available on the South African Human Rights Commission's website (www.sahrs.org.za) and the Department of Justice and Constitutional Development's website (www.doj.gov.za) must be filled in with enough particularity to at least enable the information officer to identify:

- the record or records requested;
- the identity of the requester;
- which, form of access is required, if the request is granted;
- the postal address or facsimile number of the requester.

The requester must state that he/she/it requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

The Responsible Party will process the request within 30 calendar days unless the requester has stated special reasons which would satisfy the information officer that circumstances dictate that the above time periods not be complied with. The requester shall be informed in writing whether access was granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he/she must state the manner and the particulars so required.

If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the information officer.

If a requester is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.

The requester must pay the prescribed fee as detailed in this policy before any further processing can take place.

12. TYPES OF REQUESTERS

Records held by the Responsible Party may be accessed by requests only once the prerequisite requirements for access have been met.

A requester is any person making a request for access to a record of the Responsible Party. There are two types of requesters:

Personal Requester

- A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- the Responsible Party will voluntarily provide the requested information or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

Other Requester

- The requester (other than a personal requester) is entitled to request access to information on third parties. However, the Responsible Party is not obliged to voluntarily grant access. The requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

13. FEES

The Act provides for two types of fees, namely:

- a request fee, which will be a standard fee; and

- an access fee which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.

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

If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the information officer shall notify the requester to pay as a deposit, the prescribed portion of the access fee which would be payable if the request is granted.

The information officer shall withhold a record until the requester has paid the fees as indicated in "Appendix 2".

A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.

If a deposit has been paid in respect of a request for access, which is refused, then the information officer must repay the deposit to the requester.

14. DECISIONS

The Responsible Party will, within 30 calendar days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

The 30 calendar day period with which the Responsible Party has to decide whether to grant or refuse the request, may be extended for a further period of not more than 30 calendar days if the request is for a large volume of information, or the request requires a search for information held at another office of the Responsible Party, and the information cannot reasonably be obtained within the original 30 calendar day period, the Responsible Party will notify the requester in writing should such an extension be sought.

15. AVAILABILITY OF THE MANUAL

The manual is made available in terms of Regulation Number R187 of 15 February 2002 and is available on our website, at our registered offices and the offices of the South African Human Rights Commission on the contact details as stated in this policy.

16. APPENDIX 1: REQUEST FOR RECORD ACCESS

A. Particulars of private body

Company details: Poswa Incorporated

Address: First Floor Poswa House
No. 8 Gembok Lane, Rivonia
Extension 12 Sandton, 2128

Postnet Suite 128,

Private Bag X9 Benmore 2010

Web address: www.poswainc.com

E-mail address: foster.tshiluvhu@poswainc.co.za

Information Officer: Nima Gagjee

E-mail address: nima.gagjee@poswainc.co.za

B. Particulars of person requesting access to the record

- (a) The particulars of the person who requests access to the record must be given below.
- (b) The address and/or fax number in the Republic to which the information is to be sent must be given.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

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

C. Particulars of person on whose behalf request is made

This section must be completed *ONLY* if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

D. Particulars of record

(a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.

(b) If the provided space is inadequate, please continue on a separate folio and attach it to this form.

The requester must sign all the additional folios.

1 Description of record or relevant part of the record:

2 Reference number, if available:

3 Any further particulars of record:

E. Fees

(a) A request for access to a record, other *than* a record containing personal information about yourself, will be processed only after a request fee has been paid.

(b) You will be *notified of* the amount required to be paid as the request fee.

(c) The fee payable for access to a record depends *on* the form *in which* access is required and the reasonable time *required* to search for and prepare a record.

(d) If you qualify for exemption *of* the payment *of* any fee, please state the reason for exemption below.

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required
Form in which record is required:	

Mark the appropriate box with an X.

NOTES:

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

1.If the record is in written or printed form:			
	copy of record		inspection of record
2.If record consists of visual images			
This includes photographs, slides, video recordings, computer – generated images, sketches, etc			
	view the images		copy of the images
			transcription of the images
3. If record consists of recorded words or information which can be reproduced in sound:			
	listen to the soundtrack		transcription of soundtrack
	audio cassette		written or printed document
4.If record is held on computer or in an electronic or machine-readable form:			
	printed copy of record		printed copy of information
			derived from the record
			copy in computer readable form
			(stiffy or compact disc)
If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.			YES NO

G Particulars of right to be exercised or protected

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

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

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

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

Signed at..... on this day of 2021

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE

17. APPENDIX 2: FEES

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

1. Copies of a manual

Should an individual require a copy of the Responsible Party's manual, a fee of R0.60 is chargeable for every photocopy of an A4 page or part thereof.

2. Reproduction fees

Reproduction fees apply to obtaining copies or transcriptions of information that is automatically available from the private body.

3. Access fees

Access fees are chargeable for copies or transcriptions of information requested under this Act.

4. Other fees

A request fee of R50.00 is payable by a requester who is seeking access to a record containing information which is not personal to the requester.

A search fee may be charged at a rate of R30,00 per hour or part thereof for searching and preparing the record for disclosure provided such time was reasonably required for that purpose.

If the request is not limited to records containing information that is personal to the requester and if the business head of the Responsible Party is of the opinion that the time taken to give effect to the request will exceed six hours, the requester can be called upon to pay a deposit of not more than one third of an estimate of the access fee which will become payable.

If a copy of a record is posted to a requester, the requester is obliged to pay the actual postage payable.

FEES IN RESPECT OF PRIVATE BODIES

1. The fee for a copy of the manual is R1.10 for every photocopy of an A4 size page or part thereof.

2. The fees for reproduction are as follows:

(a) For every photocopy of an A4 size page or part thereof R1,10

(b) For every printed copy of an A4 size page or part thereof held on a computer or in electronic or machine-readable form R0,75

- (c) For a copy in a computer readable form on:
 - (i) Compact disc. R70,00
 - (d) (i) For a transcription of visual images, for an A4 size page or part thereof; R40,00
 - (ii) For a copy of visual images. R60,00
 - (e) (i) For a transcription of an audio record, for an A4 size page or part thereof; R20,00
 - (ii) For a copy of an audio record. R30,00
3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00.
 4. For purposes of section 54(2) of the Act, the following applies:
 - (a) Six hours as the hours to be exceeded before a deposit is payable; and
 - (b) one third of the access fee is payable as a deposit by the requester.
 5. The actual postage is payable when a copy of a record must be posted to a requester.
 6. 4.Value Added Tax (VAT) must be added to all fees prescribed in terms of the Regulations to the Act.

18. APPENDIX 3: INFORMATION AVAILABLE IN TERMS OF OTHER LEGISLATION

The Responsible Party is required to keep records in terms of certain legislation. Insofar as may be applicable, the Responsible Party keeps records of information to the extent required in terms of the following legislation, as amended, and codes of best business practice:

Legal Practice Act No.28 of 2014 as well as rules and regulations to said Act

Protection of Personal Information Act No. 4 of 2013

Administration of Estates Act No. 66 of 1965

Basic Conditions of Employment Act No. 75 of 1997

Companies Act No. 71 of 2008

Compensation for Occupational Injuries and Diseases Act No. 130 of 1993

Competition Act No. 89 of 1998

Consumer Protection Act No. 68 of 2008

Employment Equity Act No. 55 of 1998

Financial Advisory and Intermediary Services Act No. 37 of 2002

Financial Intelligence Centre Act No. 38 of 2001

Income Tax Act No. 58 of 1962

Labour Relations Act No. 66 of 1995

National Credit Act No. 34 of 2005

Occupational Health and Safety Act No. 85 of 1993

Prescription Act No. 68 to 1969

Prevention of Organised Crime Act No. 121 of 1998

Transfer Duty Act No. 40 of 1949

Unemployment Insurance Act No. 63 of 2001

Value-added Tax Act No. 89 of 1991