

MANUAL FOR ACCESS TO INFORMATION HELD BY A PRIVATE BODY



**THIS MANUAL HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 51 OF
THE PROMOTION OF ACCESS TO INFORMATION ACT, ACT 2 OF 2000**

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1. PREAMBLE

The Promotion of Access to Information Act was promulgated in March 2001. The Act was put in place in order to actively promote a society in which the people of South Africa have effective access to information, which enables them to more fully exercise and protect their rights. The promulgation of the Act was also designed to foster a culture of transparency and accountability in Public and Private Bodies, as defined. This Manual has been prepared in accordance with Section 51 of the Promotion of Access to Information Act, Act 2 of 2002.

The purpose of this manual is to lay down guidelines for a member of the public to access information held by our firm where such information is required to exercise or to protect any rights of that person, as provided for in section 51 of the Promotion of Access to Information Act, Act 2 of 200 (“the Act”), read with section 32(1)(b) of the Constitution of the Republic of South Africa, 1996 (“the Constitution”).

2. INTRODUCTION TO KELLERMAN HENDRIKSE INC.

Kellerman Hendrikse Incorporated is a boutique legal practice based in the northern suburbs of Cape Town. We offer specialised legal services to a growing client base which includes individual clients, small to medium businesses as well as large corporations. Some of our institutional clients include ABSA Bank, First National Bank, Standard Bank, Etana, Santam and the South African Rugby Players Association.

We as a private body have compiled this Manual, not only to comply with the provisions of the Act, but also to foster a culture of transparency and accountability in our environment and to ensure that members of the public have effective access to information in our possession which will assist them in the exercise and protection of their rights.

3. FIRM CONTACT DETAILS

- 3.1 Information Officer: **THEO HENDRIKSE**
- 3.2 Postal address: P. O. Box 1612,
Bellville,
7535
- 3.3 Docex: 44
- 3.4 Street address: 30 Bloem Street,
Boston,
Bellville
- 3.5 Telephone number: (021) 944-6600
- 3.6 Fax number: (021) 949-2426
- 3.7 Email: admin@khlaw.co.za
- 3.8 Website: www.khlaw.co.za
- 3.9 Registration number: 2003/021691/21
- 3.10 VAT No.: 436 021 5448

4. GUIDELINES FOR ACCESS TO INFORMATION AS PROVIDED FOR IN SECTION 10 OF THE ACT

A guideline manual for how to use the Act has been compiled by the South African Human Rights Commission (“SAHRC”). This guide can be accessed directly from the SAHRC at the following contact details:

- 4.1 Website: www.sahrc.org.za
- 4.2 Postal address: PAIA UNIT,
Private bag 2700,
Houghton,
2041
- 4.3 Telephone: (011) 484-8300
- 4.4 Fax: (011) 484-0582
- 4.5 Email: paia@sahrc.org.za

5. RECORDS WHICH ARE AVAILABLE IN TERMS OF OTHER LEGISLATION

Records which are held by our offices in terms of statutory legislation other than the Act and that are available for inspection upon application includes but is not limited to (this list is not exhaustive):

- Attorneys Act, Act 53 of 1979.
- Basic Conditions of Employment Act, Act 75 of 1997.
- Companies Act, Act 61 of 1973.
- Companies Act, Act 71 of 2008.
- Compensation for Occupational Injuries and Diseases Act, Act 130 of 1993.
- Consumer Protection Act, Act 68 of 2008.
- Employment Equity Act, Act 55 of 1998.
- Financial Intelligence Centre Act, Act 38 of 2001.
- Income Tax Act, Act 58 of 1962.
- Insolvency Act, Act 24 of 1936.
- Labour Relations Act, Act 66 of 1995.
- National Credit Act, Act 34 of 2005.
- Occupational Health and Safety Act, Act 85 of 1993.
- Pension Funds Act, Act 24 of 1956.
- Rules of the Cape Law Society.
- Skills Development Act, Act 97 of 1998.
- Stamp duties Act, Act 77 of 1968.
- Trust Property Control Act, Act 57 of 1998.
- Unemployment Insurance Act, Act 30 of 1996.
- Unemployment Insurance Act, Act 4 of 2003
- Unemployment Insurance Act, Act 63 of 2001.
- Value Added Tax Act, Act 89 of 1991.

6. CATEGORIES OF RECORDS HELD BY KELLERMAN HENDRIKSE INCORPORATED

Information regarding the areas of legal practise of our firm can be located on our website at the address specific in point 2.8 above. The website is accessible to anyone with access to the internet.

Other records held by our firm include, *inter alia*:

- Accounting Records.
- Annual Financial Records.
- Banking Records.
- Client Records.
- Commercial Contracts.
- Debt Collection Records.
- Disciplinary Records.
- Employment Contracts.
- Employee Records.
- Financial Records
- Memorandums of Incorporation.
- PAYE Agreements.
- Records relating to immovable and moveable property.
- Records relating to the appointment and resignation fo directors, auditors, secretaries, public officers and other officers.
- Rental Agreements.
- Documents relating to activities involving SARS.
- Tax Returns.
- Wills, Codicils and other Testamentary writings.
- Trust Deeds.
- Insurance Contracts.

Records and information which may be required for the exercise or protection of any right(s) will be made available by our Information Officer, subject to the provisions of the Act, along with payment of the required fees. The prescribed form may be accessed on the SAHRC website as listed in point 3.1 above.

7. GROUNDS FOR REFUSING ACCESS

Access to any record(s) may be refused on certain recognised grounds which include:

- Privacy.
- Privilege.
- Confidentiality of client records.
- Trade secrets.
- Copyright.
- Protected Information Technology.
- Where the request is unreasonable, vexatious, or frivolous.
- Where the request is not done in the prescribed form with payment of the prescribed fee.

8. INTERNAL APPEAL MECHANISM WHEN ACCESS IS REFUSED ON A RECOGNISED GROUND IN TERMS OF THE ACT

Where a request for access has been refused or not replied to, an internal appeal can be lodged with the Directors at one of the addresses listed under point 2 above. An internal appeal can be lodged by way of a written letter addressed to the Directors of our firm.

In the event that an internal appeal is unsuccessful for whatever reason, the applicant is entitled to exercise their remedies in terms of the Act, which include access to a Court of law.

9. FEES PAYABLE WHEN REQUESTING ACCESS TO ANY RECORD

The fees as prescribed by the Act include:

9.1	Request fee		R 50.00
9.2	Every A4 photocopy or part thereof (per folio)		R 1.10
9.3	Every A4 print copy (per folio)		R 0.75
9.4	Electronic copies	- per Compact Disk	R 70.00
		- per Stiffy Disk	R 7.50
9.5	Transcription of visual images	- per A4 page	R 40.00
		- per Copy	R 60.00
9.6	Transcription of audio records	- per A4 page	R 20.00
		- per copy of audio	R 30.00
9.7	Fee for time spent accessing record (per 30 min)		R 30.00
9.8	Actual postal fees are payable by the requester		
9.9	Appeal fee for internal appeal		R 50.00
9.10	The fees prescribed above are free of VAT which will be added to the fee when a request is received.		

10. HOW TO LODGE YOUR REQUEST

A requester must:

- 10.1 Tender and make payment of all allowable fees when a request is lodged with our offices.
- 10.2 Make use of Form C (as prescribed by section 51(e) of the Act) which can be located at www.sahrc.org.za .
- 10.3 Deliver Form C together with the allowable fees to the appointed Information Officer using one of the contact options set out in this manual.
- 10.4 Ensure that the Form C contains:
 - 10.4.1 Sufficient particulars to enable the Information Officer to identify the record(s) being requested as well as the identity of the person requesting such records;
 - 10.4.2 Indicate the type and form of the access which is required;
 - 10.4.3 Specify an address of the requester (whether postal, fax, email or otherwise) within the Republic of South Africa, or indicate any other format in which the requester wishes to receive a reply to their request;
 - 10.4.4 Clearly set out the right(s) which the requester needs to protect and/or exercise; and
 - 10.4.5 Provide an explanation of how the requested records are to be used to exercise or protect the right(s) in question.
- 10.5 Where a request for access is made by any person other than the person who intends on using the information to exercise and/or protect any right(s). The person lodging such a request must specify clearly on the request:

- 10.5.1 That they are lodging the request on someone else's behalf;
- 10.5.2 Ensure that the contact details of the person for whom they have lodged the request, as well as for themselves, are clearly set out in the request form; and
- 10.5.3 Attach sufficient proof, to the reasonable satisfaction of the Information Officer, of their authority and/or capacity to make the request.

11. AVAILABILITY OF THIS MANUAL

This manual is available for inspection at our offices at no cost.

Copies of this manual may be obtained from our offices subject to payment of a prescribed nominal fee.

The manual can also be accessed on our website at www.khlaw.co.za.

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000)

[Regulation 10]

A. Particulars of private body

The Head:

B. Particulars of person requesting access to the record

(a) The particulars of the person who requests access to the record must be given below.

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

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

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

C. Particulars of person on whose behalf request is made

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

Full names and surname:

Identity number:

D. Particulars of record

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

The requester must sign all the additional folios.

- 1 Description of record or relevant part of the record:
- 2 Reference number, if available:
- 3 Any further particulars of record:

E. Fees

- (a) A request for access to a record, other *than* a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be *notified of* the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends *on* the form *in which* access is required and the reasonable time *required* to search for and prepare a record.
- (d) If you qualify for exemption *of* the payment *of* any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

F. Form of access to record

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

Disability: Form in which record is required:	Form in which record is required
Mark the appropriate box with an X.	
<p>NOTES:</p> <p>(a) Compliance with your request in the specified form may depend on the form in which the record is available.</p> <p>(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.</p> <p>(c) The fee payable for access for the record, if any, will be determined partly by the form in which access is requested.</p>	

Record is in written or printed form:

	copy of record*		Form of record
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Record consists of visual images

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)

	Form of images		Form of the images"
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Record consists of recorded words or information which can be reproduced in

	the soundtrack audio cassette		tion of soundtrack* r printed document
4. If record is held on computer or in an electronic or machine-readable form:			
	copy of record*	copy of information from the record"	computer readable form* (compact disc)
requested a copy or transcription of a record (above), do you wish the transcription to be posted to you? is payable.			

G Particulars of right to be exercised or protected

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

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

H. Notice of decision regarding request for access

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

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

Signed at..... This..... day of20

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE