

PROMOTION OF ACCESS TO INFORMATION ACT MANUAL

Description of the Act

The Promotion of Access to Information Act, No 2 of 2000 ("the Act") was enacted on 3 February 2000, giving effect to the constitutional right of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information may or must not be released. The Act sets out the requisite procedural issues attached to such request. The Act is read in conjunction with the Protection of Personal Information Act 4 of 2013.

Purpose

This manual is intended to foster a culture of transparency and accountability, by giving effect to the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect their rights.

In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the Act in order for them to exercise their rights in relation to public and private bodies.

Section 9 of the Act however recognises that such right to access information cannot be unlimited and should be 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 in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

This manual sets out to deal with the requests in a conforming manner, which will enable the requestors to obtain the records which they are entitled to in a quick, easy and accessible manner. Provisions of sections 18 and 53 of the Act apply to requests made in terms of section 23 of the Protection of Personal Information Act 4 of 2013.

Wherever reference is made to "institution" in this manual, it will refer to the private legal entities or individuals, for whom this manual is drafted.

Any and all requests can be emailed to hendre@jvattorneys.co.za

Guide of SA Human Rights Commission

The guide will contain such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act. Any enquiries regarding this guide should be directed to:

- The SOUTH AFRICAN HUMAN RIGHTS COMMISSION, at PAIA Unit (THE RESEARCH AND DOCUMENTATION DEPARTMENT),
- 132 Adderley street, Cape Town City Centre, Cape Town, 8001;
- Telephone Number : (021) 426 2277;
- Website : www.sahrc.org.za
- E-Mail Address : paia@sahrc.org.za

Records of Jonker Vorster Inc. and its Subsidiaries

- This clause serves as a reference to the records that Jonker Vorster Inc ("JV") and all its subsidiaries holds.
- It is recorded that the accessibility of the documents listed herein below, may be subject to the grounds of refusal set out hereinafter.
- The information is classified and grouped according to records relating to the following subjects and categories:

Personnel Records

- Personal records provided by personnel.
- Records provided by a third party relating to personnel.
- Conditions of employment and other personnel-related contractual and quasi-legal records.
- Internal evaluation records and other internal records.
- Correspondence relating to personnel.
- Training schedules and material.
- "Personnel" refers to any person who works for, or provides services to or on behalf of JV, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of JV. This includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff, as well as contract workers.

Customer Related Records

- Records provided by a customer to a third party acting for or on behalf of JV;
 - Records provided by a third party;
 - Records generated by or within JV relating to its customers, including transactional records.
- A “customer” refers to any natural or juristic entity that receives services from JV.

Private Body Records

- Financial records;
 - Operational records;
 - Databases;
 - Information Technology;
 - Marketing records;
 - Internal correspondence;
 - Product records;
 - Statutory records;
 - Internal Policies and Procedures;
 - Treasury-related records;
 - Securities and Equities; and
 - Records held by officials of the institution.
- These records include, but are not limited to, the records which pertain to JV’s own affairs.

Records available in accordance with South African legislation

JV holds records in terms of legislation as detailed below.

Other Party Records

- Personnel, customer or private body records which are held by another party, as opposed to the records held by JV itself;
- Records held by JV pertaining to other parties, including without limitation, legal documents, financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.
- JV 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 JV.

Refusal of Access to Records

Grounds to Refuse Access

The main grounds for JV to refuse a request for information relates to the:

- Mandatory protection of the privacy of a third party who is a natural person/juristic, which would involve the unreasonable disclosure of personal information of that natural person/juristic;
- Mandatory protection of the commercial information of a third party, if the record contains:
 - trade secrets of the third party;
 - financial, commercial, scientific, legal or technical information which disclosure could likely cause harm to the financial, legal or commercial interests of that third party;
 - information disclosed in confidence by a third party to JV, 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 which would be regarded as privileged in legal proceedings;
- The commercial activities of JV, which may include:
 - trade secrets of JV;
 - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of JV;
 - information which, if disclosed could put JV at a disadvantage in negotiations or commercial competition;
 - a computer program which is owned by JV, and which is protected by copyright.
 - the research information of JV or a third party, if its disclosure would disclose the identity of JV, 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.
- Section 23(4)(a) of the Protection of Personal Information Act applies the same grounds to refuse access.

Remedies Available when JV Refuses a Request

Internal Remedies

JV does not have internal appeal procedures. As such, the decision made by the Information Officer is final, and requestors will have to exercise such external remedies at their disposal if the request for information is refused, and the requestor is not satisfied with the answer supplied by the Information Officer.

External Remedies

- A requestor that is dissatisfied with the Information Officer's refusal to disclose information, may within 30 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 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.

Request Procedure

Procedural Requirements

The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

The requester must complete the prescribed form, and submit same as well as payment of a request fee and a deposit, if applicable to the Information Officer or the Deputy Information Officer at the postal or physical address or electronic mail address as stated above.

The prescribed form must be filled in with enough 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 email address of the requester.

The requester must state that they require 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.

JV will process the request within 30 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 whether access is granted or denied in writing. If, in addition, the requester requires the reasons for the decision in any other manner, they 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 an individual 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, before any further processing can take place. If an information officer fails to give the decision on a request for access to the requestor concerned within 30 days, the information officer is regarded as having refused the request.

Decision

Time Allowed to Institution

JV will, within 30 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 day period with which JV has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty days if the request is for a large number of information, or the request requires a search for information held at another office of JV and the information cannot reasonably be obtained within the original 30 day period.

JV will notify the requester in writing should an extension be sought.

Availability of the Manual

This manual is made available in terms of Regulation Number R.187 of 15 February 2002.

RECORDS AVAILABLE IN ACCORDANCE WITH SOUTH AFRICAN LEGISLATION

- Administration of Estates Act 66 of 1965
- Alienation of Land Act 68 of 1981
- Attorneys Act 53 of 1979
- Banks Act 94 of 1990
- Basic Conditions of Employment Act 75 of 1997
- Bills of Exchange Act 34 of 1964
- Births and Deaths Registration Act 51 of 1992
- Children's Act 38 of 2005
- Collective Investment Schemes Act 45 of 2002
- Companies Act 71 of 2008
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Competition Act 89 of 1998
- Constitution Of the Republic of South Africa, 1996
- Consumer Protection Act 68 of 2008
- Criminal Procedures Act 51 of 1977
- Debt Collectors' Act 114 of 1998
- Deeds Registries Act 47 of 1937
- Designs Act 195 of 1993 (Sect 7(2))
- Electronic Communications Act 36 of 2005
- Electronic Communications and Transaction Act 25 of 2002
- Employment Equity Act 55 of 1998
- Estate Agency Affairs Act 112 of 1976
- Extension of Security of Tenure Act 62 of 1997
- Financial Advisory and Intermediary Services Act 37 of 2002 Financial Institutions (Protection of Funds) Act 28 of 2001
- Financial Intelligence Centre Act 38 of 2001
- Financial Markets Act 19 of 2012
- Firearms Control Act 60 of 2000
- Fund Raising Act 107 of 1978
- Home Loan and Mortgage Disclosure Act 63 of 2000
- Identification Act 68 of 1997
- Insolvency Act 24 of 1936
- Inspection of Financial Institutions Act 80 of 1998
- Labour Relations Act 66 of 1995
- Long Term Insurance Act 52 of 1998
- National Credit Act 34 of 2005

- National Environmental Management Act 107 of 1998
- National Environmental Management Waste Act 59 of 2008
- National Payment System Act 78 of 1998
- National Heritage Resources Act 25 of 1999
- Occupational Health and Safety Act 85 of 1993
- Patents Act 57 of 1978
- Pension Fund Act 24 of 1956
- Prevention and Combating of Corrupt Activities Act 12 of 2004
- Promotion of Access to Information Act 2 of 2000
- Protected Disclosures Act 26 of 2000
- Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004
- Protection of Personal Information Act 4 of 2013
- Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002
- Short Term Insurance Act 53 of 1998
- South African Reserve Bank Act 90 of 1989
- Tax Administration Act 28 of 2011
- Trade Marks Act 194 of 1993
- Transfer Duty Act 40 of 1949
- Unemployment Insurance Act 63 of 2001
- Value Added Tax Act 89 of 1991

Forms needed:

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]:

https://www.justice.gov.za/forms/paia/J752_paia_Form%20C.pdf