

DAWSON EDWARDS AND ASSOCIATES

MANUAL

Section 51,

Promotion of Access to Information Act

2/2000

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A. INTRODUCTION TO DAWSON EDWARDS AND ASSOCIATES

A firm of lawyers specialising in Maritime and Commercial Law, hereinafter referred to as the “Firm”.

B. PARTICULARS IN TERMS OF THE SECTION 51 MANUAL

1. Contact details [Section 51(1)(a)].

Information Officer: Mr. Peter Edwards

Po Box 12425

Mill Street, Gardens
8010

“De Hoop”
2 Vriende Street
Gardens

8001

Tel: 021-462 4340

Fax 021-462 4390

E-mail: petere@dawsons.co.za

Website: www.oceanlaw.co.za

2. **The section 10 Guide on how to use the Act [Section 51(1)(b)]**

The Guide will be available from the South African Human Rights Commission by not later than 31 December 2011. Please direct any queries to:

The South African Human Rights Commission:

PAIA Unit

The Research and Documentation Department

Postal address: Private Bag 2700
Houghton

2041

Telephone: +27 11 484-8300

Fax: +27 11 484-0582

Website: www.sahrc.org.za

E-mail: PAIA@sahrc.org.za

3. **Records available in terms of any other legislation [Section 51(1)(d)]**

1. Administration of Estates Act, No. 66 of 1965
2. Arbitration Act No. 42 of 1965
3. Attorneys Act No 53 of 1979
4. Basic Conditions of Employment Act No. 75 of 1997

5. Companies Act No. 71 of 2008
 6. Compensation for Occupational Injuries and Health Diseases Act No.130 of 1993
 7. Credit Agreements Act No. 34 of 2005
 8. Debtor Collectors Act No. 114 of 1998
 9. Employment Equity Act No. 55 of 1998
 10. Income Tax Act No. 95 of 1967
 11. Insolvency Act No. 24 of 1936
 12. Insurance Act No 27 of 1943
 13. Labour Relations Act No. 66 of 1995
 14. Occupational Health & Safety Act No. 85 of 1993
 15. Stamp Duties Act No. 77 of 1968
 16. Unemployment Insurance Act No. 63 of 2001
 17. Usury Act No 73 of 1968
 18. Value Added Tax Act No. 89 of 1991
4. **Access to the records held by the private body in question [Sections 51(1)(c) and 51(1)(e)].**
- i. **The latest notice regarding the categories of records of the body, which are available without a person having to request access in terms of this Act in terms of section 52(2) [Section 51(1)(c)]**

All information available on the Firm's website: www.oceanlaw.co.za
 - ii. **A description of the subjects of the records held by the body and the categories in which these subjects are classed [Section 51(1)(e)]**

Records held by Dawson Edwards and Associates

Administration

- Account processing
- Records of creditors

- Minutes of staff meetings
- Correspondence
- PAYE and UIF

Human Resources

- Staff policies
- Employment contracts
- Remuneration records and policies

Operations

- Clients registry
- Client files
- Correspondence
- Legal opinion
- Process
- Documents
- Costs

Finances

- Financial statements
- Annual financial statements
- Vouchers
- Income tax records
- VAT returns
- Bond statements
- Assets inventory
- Insurance schedules

Classification of records

Access	Categories of records
May be disclosed	Statutory instruments
May not be disclosed	Request after commencement of criminal or civil proceedings [s7]
Limited disclosure	Personal information that belongs to the requester of that information [s61]
May not be disclosed	Unreasonable disclosure of personal information of natural person [s63(1)]

May not be disclosed	Likely to harm the commercial or financial interests of a third party [s64(a) & (b)]
May not be disclosed	Likely to harm the Firm or third party in contract or other negotiations [s64(c)]
May not be disclosed	Would breach a duty of confidence owed to a third party in terms of an agreement [s65]

Access	Categories of records
May not be disclosed	Information required to be kept confidential in terms of any other statute, regulation, rule or other lawful prescription
May not be disclosed	Likely to compromise the safety of individuals or protection of property [s66]
May not be disclosed	Legally privileged documents [s67]
May not be disclosed	Environmental testing /investigation which reveals public safety/ environmental risks [64(2); s68(2)]
May not be disclosed	Commercial Information of the Firm as set out in s68
May not be disclosed	Likely to prejudice research and development information of the Firm or a third party [s69]
May not be refused	Disclosure in public interest [s70]
Available without person having to request access	All information available on the Firm's website at www.oceanlaw.co.za

iii. The request procedures

Form of request:

- The requester must use the prescribed form to make the request for access to a record. This is available on the website of the Firm at www.oceanlaw.co.za, and in the Annexures attached hereto. This must be made to the head of Dawson Edwards and Associates. This request must be made to the address, fax number or electronic mail address of the Firm [s 53(1)].
- The requester must provide sufficient detail on the request form to enable the head of the Firm to identify the record and the requester. The requester should also indicate which form of access is required. The requester should also indicate if any other manner is to be used to inform the requester and state the necessary particulars to be so informed [s 53(2)(a) and (b) and (c)].
- The requester must identify the right that is sought to be exercised or to be protected and provide an explanation of why the requested record is required for the exercise or protection of that right [s 53(2)(d)].
- If a request is made on behalf of another person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the head of the Firm [s 53(2)(f)].

Fees:

A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:

- The head of the Firm must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request [s 54(1)].
- The fee that the requester must pay to a private body is R50. The requester may lodge an application to the court against the tender or payment of the request fee [s 54(3)(b)].
- After the head of the Firm has made a decision on the request, the requester must be notified in the required form.
- If the request is granted then a further access fee must be paid for the search, reproduction, and preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure [s 54(6)].

The fee structure is available on the website of the Firm at www.oceanlaw.co.za and in the Annexures attached hereto. Kindly note that the fee structure is VAT exclusive and that VAT will be charged on the prescribed fee in terms of Annexure A of the Regulations to the Act.

5. **Other information as may be prescribed [Section 51(1)(f)]**

The Minister of Justice and Constitutional Development has not made any regulations in this regard.

6. **Availability of the manual [Section 51(3)]**

This manual is also available for inspection free of charge and during office hours at the offices of Dawson Edwards and Associates; and copies are available with the SAHRC, the Cape Law Society and on the website of Dawson Edwards and Associates www.oceanlaw.co.za

C. ANNEXURES

GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R. 187

15 February 2002

PROMOTION OF ACCESS TO INFORMATION ACT, 2000 REGULATIONS REGARDING THE PROMOTION OF ACCESS TO INFORMATION

The Minister for Justice and Constitutional Development has, under section 92 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), made the regulations in the Schedule.

1.1 CHAPTER 3: ACCESS TO RECORDS OF PRIVATE BODIES

Availability of manual: Private body

9. (1) The head of a private body must, immediately after the manual has been compiled in terms of section 51(1) or updated in terms of section 51(2) of the Act –

- (a) make available a copy of the manual to –
 - (i) the Human Rights Commission; and
 - (ii) the controlling body of which that private body is a member, if applicable;
- (b) publish the manual in the *Gazette*; and
- (c) make available the manual on the website, if any, of the private body.

(2) The head of a private body -

- (d) must, during office hours and upon request, make available for public inspection a copy of the manual;
- (e) may not charge a fee for a public inspection referred to in paragraph (a); and
- (f) may, in respect of a copy of the manual or part thereof made available in a manner other than that contemplated in paragraph(a), charge the fee prescribed in Item 1 of Part III of Annexure A.

Form of request

10. A request for access to a record as contemplated in section 53(1) of the Act must substantially correspond with Form C of Annexure B.

Fees for records of private body

11.
 - (1) The fees for reproduction referred to in section 52(3) of the Act are prescribed in Item 2
 - (2) The request fee payable by a requester, other than a personal requester, referred to in section 54(1) of the Act is prescribed in Item 3 of Part III of Annexure A.
 - (3) The access fees payable by a requester referred to in section 54(7), unless exempted under section 54(8), of the Act are prescribed in Item 4 of Part III of Annexure A.

1.2 PART III: FEES IN RESPECT OF PRIVATE BODIES

1. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1,10 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 11(1) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form	0,75
(c) For a copy in a computer-readable form on -	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) For a copy of an audio record	30,00
3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50.00.
4. The access fees payable by a requester referred to in regulation 11(3) are as follows:

	R
(1) (a) For every photocopy of an A4-size page or part thereof	1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form	0,75
(c) For a copy in a computer-readable form on -	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) For a copy of an audio record	30,00
(f) To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.	

- (2) 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.
- (3) The actual postage is payable when a copy of a record must be posted to a requester.

**1.3 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

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

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

<i>This section must be completed ONLY if a request for information is made on behalf of another person.</i>

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:			
<p>Mark the appropriate box with an X.</p> <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 to the record, if any, will be determined partly by the form in which access is requested.</p>					
1. If the record is in written or printed form:					
<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record		
2. If record consists of visual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):					
<input type="checkbox"/>	view the images	<input type="checkbox"/>	copy of the images*		
<input type="checkbox"/>		<input type="checkbox"/>	transcription of the images*		
3. If record consists of recorded words or information which can be reproduced in sound:					
<input type="checkbox"/>	listen to the soundtrack (audio cassette)	<input type="checkbox"/>	transcription of soundtrack* (written or printed document)		
4. If record is held on computer or in an electronic or machine-readable form:					
<input type="checkbox"/>	printed copy of record*	<input type="checkbox"/>	printed copy of information derived from the record*		
<input type="checkbox"/>		<input type="checkbox"/>	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.			<table border="1"> <tr> <td>YES</td> <td>NO</td> </tr> </table>	YES	NO
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?.....

Signed at _____ this _____ day of _____ 2011.

.....
**SIGNATURE OF REQUESTER / PERSON
ON WHOSE BEHALF REQUEST IS MADE**