

Section 51 Manual for Tenfour Consulting (PTY) LTD

THIS MANUAL HAS BEEN PREPARED IN TERMS OF SECTION 51 OF THE PROMOTION OF ACCESS
TO INFORMATION ACT 2 / 2000

INFORMATION REQUIRED UNDER SECTION 51(1)(a) OF THE ACT

Registration Number	2004/007431/07
Information Officer	GM Beukes
Physical Address	4D House, Block 2 The Boardwalk Lakeside, 107 Haymeadow Crescent, Faerie Glen, 0043
Postal Address	PO Box 73481, Lynnwood Ridge, 0040
Telephone	012 991 9600
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DESCRIPTION OF GUIDE REFERRED TO IN SECTION 10: SECTION 51(1)(b)

A Guide has been completed in terms of Section 10 of PAIA by the Human Rights Commission. It contains information required by a person wishing to exercise any right, contemplated by PAIA.

The Guide is available from the South African Human Rights Commission. Please direct queries to:

The South African Human Rights Commission:

PAIA Unit
The Research and Documentation Department
Postal Address: Private Bag X2700
Houghton
2041
Telephone: +27 11 484-8300
Fax: +27 11 484-1360
Website: www.sahrc.org.za
E-mail: PAIA@sahrc.org.za

THE LATEST NOTICE IN TERMS OF SECTION 52(2) (IF ANY):

At this stage no notice(s) has/have been published on the categories of records that are automatically available without a person having to request access in terms of PAIA.

RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION: SECTION 51(1) (d)

Information is available in terms of the following legislation, if and where applicable:

Basic Conditions of Employment Act No. 75 of 1997
Companies Act No. 61 of 1973
Companies Act No. 71 of 2008
Compensation of Occupational Injuries and Diseases Act No. 130 of 1993
Customs and Excise Act No. 91 of 1964
Electronic Communications and Transactions Act No. 25 of 2002
Income Tax Act No. 58 of 1962
Insolvency Act No. 24 of 1936
Labour Relations Act No. 66 of 1995

Occupational Health and Safety Act No. 85 of 1993
Promotion of Access to Information Act No. 2 of 2000
Skills Development Levies Act No. 9 of 1999
Unemployment Insurance Act No. 30 of 1966
Value – Added Tax Act No. 89 of 1991
Long-Term Insurance Act No. 52 of 1998
Policy Protection Rules
Financial Advisory and Intermediary Services Act No. 37 of 2002
Financial Intelligence Centre Act No. 38 of 2001

SUBJECTS AND CATEGORIES OF RECORDS HELD BY Tenfour Consulting (PTY) LTD: SECTION 51(1)(e)

1. COMPANIES ACT RECORDS

- Documents of Incorporation
- Memorandum and Articles of Association
- Minutes of Board of Directors meetings
- Records relating to the appointment of directors/auditor/secretary/public officer and other officers
- Share Register and other statutory registers

2. FINANCIAL RECORDS

- Annual Financial Statements
- Tax Returns
- Accounting Records
- Banking Records
- Bank Statements
- Paid cheques
- Electronic Banking Records
- Asset Register
- Rental Agreements
- Invoices

3. INCOME TAX RECORDS

- PAYE Records
- Documents issued to employees for income tax purposes
- Records of payments made to SARS on behalf of employees
- All statutory compliances:
 - VAT
 - Skills Development Levies
 - UIF
 - Workmen Compensation

4. PERSONNEL DOCUMENTS AND RECORDS

- Employment contracts
- Disciplinary Records
- Salary Records
- SETA Records
- Disciplinary code
- Leave records

DETAIL ON HOW TO MAKE A REQUEST FOR ACCESS – SECTION 51(e)

- The requester must complete form C and submit this form together with a request fee, to the head of the private body.
- The form must be submitted to the head of the private body at his/her address, fax number, or electronic mail address.
- The form must:
 - Provide sufficient particulars to enable the head of the private body to identify the record/s requested and to identify the requester,
 - Indicate which form of access is required,
 - Specify a postal address or fax number of the requester in the Republic,
 - Identify the right that the requester is seeking to exercise or protect, and provide an explanation of why the requested record is required for the exercise or protection of that right,
 - If in addition to a written reply, the requester wishes to be informed of the decision of the request in any other manner, to state that manner and the necessary particulars to be informed in the other manner,
- If the request is made on behalf of another person, to submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the head of the private body.

Section 51(1)(f)

Other information as may be prescribed

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

Section 51(3)

Availability of the material

The manual is available at our offices free of charge; and copies are available with the SAHRC, in the Gazette and on our website as listed above.

GROUNDINGS FOR REFUSAL OF ACCESS OF RECORDS

Tenfour Consulting may refuse a request for information on the following basis:

- 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; and
 - Information disclosed in confidence by a third party to Tenfour Consulting, 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 or legislation;
- 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 Tenfour Consulting, which may include:
 - Trade secrets of Tenfour Consulting
 - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of Tenfour Consulting;
 - Information, if disclosed, could put Tenfour Consulting at a disadvantage in negotiations or commercial competition;
 - A computer program which is owned by Tenfour Consulting and which is protected by copyright.
- The research information of Tenfour Consulting or a third party, if its disclosure would disclose the identity of the institution, the researcher or the subject matter of the research and would place the research at a serious disadvantage;
- Request for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

ACCESS TO RECORDS HELD BY Tenfour Consulting

- Records held by Tenfour Consulting 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 of record of or held by Tenfour Consulting. 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
 - Tenfour Consulting 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**
 - This requester (other than a personal requester) is entitled to request access to information on third parties. However, Tenfour Consulting is not obliged to voluntarily grant access. The requester must fulfill the prerequisite requirements in terms of the Act, including the payment of request and access fee.

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, the officer will 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 will 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 will withhold a record until the requester has paid the fees as indicated in **ANNEXURE 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 requested form.
- If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer, will repay the deposit to the requester.

DECISION

- Tenfour Consulting 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 Tenfour Consulting 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 Tenfour Consulting and the information cannot reasonably be obtained within the original 30 day period. The Information Officer will notify the requester in writing should an extension be sought.

REMEDIES AVAILABLE WHEN Tenfour Consulting REFUSES A REQUEST FOR INFORMATION

- **Internal remedies**
 - Tenfour Consulting does not have internal appeal procedures. Therefore, the decision made by the Information Officer is final. Requesters who are dissatisfied with a decision of the Information Officer will have to exercise external remedies at their disposal.
- **External Remedies**
 - A requester or a third party, who is dissatisfied with an Information Officer's refusal to disclose information may within 30 days of notification of the decision, apply to the Constitutional Court, the High Court or another court of similar status for relief.

REPRODUCTION FEES

Where Tenfour Consulting has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

The applicable fees for reproduction as referred to above are: (VAT incl)

For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form.	R0.85
For a copy in a computer-readable form on:	
• Stiffy disc	R8.55
• Compact Disc	R79.80
A transcription of visual images, for an A4-size page or part thereof	R45.60
For a copy of visual images	R68.40

A transcription of an audio record, for an A4-size page or part thereof	R22.80
For a copy of an audio record	R34.20

Request fees:

Where a requester submits a request to access to information held by Tenfour Consulting on a person other than the requester him/herself, a request fee in the amount of R57.00 is payable up-front before Tenfour Consulting will further process the request received.

Access fees:

An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act or an exclusion is determined by the Minister in terms of Section 54(8).

The applicable Access fees which will be payable are:

For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form.	R0.85
For a copy in a computer-readable form on:	
• Stiffy disc	R8.55
• Compact Disc	R79.80
A transcription of visual images, for an A4-size page or part thereof	R45.60
For a copy of visual images	R68.40
A transcription of an audio record, for an A4-size page or part thereof	R22.80
For a copy of an audio record	R34.20
To search for a record that must be disclosed (per hour or part of an hour reasonably required for such search)	R34.20

Deposits

Where Tenfour Consulting receives a request for access to information held on a person other than the requester him/herself and the Information Officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take more than six (6) hours, a deposit is payable by the requester.

The amount of the deposit is equal to 1/3 (one third) of the amount of the applicable fee.

Please Note: In terms of Regulation 8, Value Added Tax (VAT) must be added to all fees prescribed in terms of the Regulations. Therefore, the fees reflected above are VAT inclusive.

Conflict of Interest Policy

“Conflict of Interest” means any situation in which a provider or a representative has an actual or potential interest that may:

- Influence the objectivity of the FSP or representative;
- Influence their obligation towards the client;
- Prevent a FSP or representative from rendering an unbiased and fair financial service; or
- From acting in the interests of the client.

ANNEXURE 1

REQUEST FOR ACCESS TO RECORDS 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 <i>ONLY</i> if a request for <i>information</i> is made on behalf of <i>another</i> person.
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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 applicable:

3 Any further particulars of records:

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 <i>notified of</i> 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 the 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
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:			
<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*
<input type="checkbox"/>		<input type="checkbox"/>	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.			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/declined. 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 thisday of 20.....

SIGNATURE OF REQUESTER/ PERSON ON WHOSE BEHALF
REQUEST IS MADE

ANNEXURE 2

FEES IN RESPECT OF PRIVATE BODIES

(Promotion of Access to Information Regulations, 2002 of the Promotion of Access to Information Act, 2000 (Act2 of 2000))

- 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 Disk ii) Compact Disk	7.50 70.00
d) i) For a transcription of visual images, for an A4-size page or part thereof ii) For a copy of visual images	40.00 60.00
e) i) For a transcription of an audio record, for an A4-size page or part thereof ii) For a copy of an audio record	20.00 30.00

- 3) The request fee payable by every 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 Disk ii) Compact Disk	7.50 70.00
d) i) For a transcription of visual images, for an A4-size page or part thereof ii) For a copy of visual images	40.00 60.00
e) i) For a transcription of an audio record, for an A4-size page or part thereof ii) For a copy of an audio record	20.00 30.00
f) To search for and prepare the record for disclosure, R30.00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation	

- 2) For purposes of section 22(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.