



**The Institute of Directors in Southern
Africa NPC**

(Registration Number 1985/002734/08)

**PROMOTION OF ACCESS TO
INFORMATION MANUAL**



**INSTITUTE OF DIRECTORS
SOUTHERN AFRICA**

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1. INTRODUCTION

- 1.1. The Institute of Directors in Southern Africa (“the IoDSA”) Promotion of Access to Information Manual (“Manual”) is published in terms of Section 51 of the Promotion of Access to Information Act, No. 2 of 2000 (“PAIA”) and section 23 -25 of the Protection of Personal Information Act No.4 of 2014 (“POPI”).
- 1.2. PAIA gives effect to the provisions of Section 32 of the Constitution, which provides for the right of access to information. This is information held by the State but also information held by any another person. A person that is entitled to exercise a right or who needs information for the protection of any right, is entitled to access that information, subject to certain restraints.
- 1.3. Section 51 of PAIA creates a legal right to access records (as defined in section 1 of PAIA) of a private body (both natural and juristic), however this right may be negated in circumstances as set out under Chapter 4 of Part 3 of PAIA. In addition, in compliance with POPI a responsible party who processes personal information must notify the person to whom personal information relates (“Data Subject”) of the manner in which the Data Subject can access their personal information held by the responsible.

2. PURPOSE

- 2.1. The purpose of this manual is to facilitate requests for access to records (including records containing Personal Information (as defined in POPI) of the IoDSA.
- 2.2. Where this Manual does not deal with a procedure provided for in PAIA, the Requester or any other interested party is to look at the Act for guidance in relation thereto. Same is to be included as part of the Manual.
- 2.3. A person requesting access to records from the IoDSA (“the Requester”) is advised to familiarise themselves with the provisions of PAIA before making any requests to the IoDSA in terms of PAIA.
- 2.4. The IoDSA makes no representation and gives no undertaking or warranty that any record(s) provided by it to a Requester is complete or accurate, or that such record is fit for any purpose. All users of such records shall use such records entirely at their own risk, and the IoDSA shall not be liable for any loss, expense, liability or claims, howsoever arising, resulting from the use of this Manual or of any record provided by the IoDSA or any error therein.
- 2.5. All users and Requesters irrevocably agree to submit to the law of the Republic of South Africa and to the exclusive jurisdiction of the Courts of South Africa in respect of any dispute arising out of the use of this Manual or any records provided by the IoDSA.

3. INFORMATION REQUIRED UNDER SECTION 51(1)(a) OF PAIA

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Website	www.iodsa.co.za

4. COMPANY OVERVIEW

The IoDSA is a membership organisation for directors. The IoDSA also offers Director Development® programmes and governance advisory services on corporate governance, as well as board appraisal services.

5. REQUIREMENTS IN TERMS OF PAIA

5.1. Description of guide referred to in section 10: section 51(1)(b)

The South African Human Rights Commission (as provided for in section 10 of PAIA) has compiled and published by a "Guide on How to Use the Promotion of Access to Information Act 2 of 200", This Guide will assist persons in using and understanding PAIA. The Guide can be accessed via the South African Human Rights website (www.sahrc.org.za).

Any enquiries regarding this guide should be directed

5.2. Notice in terms of section 52(2) of the PAIA:

At this stage the IoDSA does not have any categories of records which are automatically available without a person having to request access in terms of PAIA, and as such no notice has been published. All categories of records of the IoDSA require a formal request to access such records.

5.3. Records available in terms of other legislation: section 51(1)(d)

The following legislation creates the obligation to keep certain records:

- Basic conditions of Employment No. 75 of 1997
- Broad Based Black Economic Empowerment Act No. 53 of 2003
- Companies Act No. 71 of 2008
- Consumer Protection Act No. 68 of 2008
- Copyright Act No.98 of 1978
- Electronic Communication and Transaction Act No. 25 of 2002
- Employment Equity Act No. 55 of 1998
- Income Tax Act No. 95 of 1967

- Insolvency Act No. 24 of 1936
- Labour Relations Act No. 66 of 1955
- National Credit Act No. 34 of 2005
- Occupational Health and Safety Act No. 85 of 1993
- Skills Development Act No. 97 of 1998
- Unemployment Insurance Act No. 63 of 2001
- Value Added Tax Act No. 89 of 1991

Such records will be made available to only those individuals/entities authorised to request access to such records in terms of the particular legislation. Any other persons must follow the request for access of records procedure as outlined in this Manual.

5.4. **Subjects and categories of records held by the IoDSA: section 51(1)(e)**

PAIA requires that sufficient detail be provided to facilitate a request for access to a record of the IoDSA. A description of the subjects on which the IoDSA holds records and the categories of the records held by each subject can be found in **Annexure “A”** of this Manual, which forms an integral part of this Manual.

6. THE PROCESS

Introduction

- 6.1. Access to records held by the IoDSA is not automatic and can be refused by the IoDSA on any of the grounds for refusal contemplated in Chapter 4 of Part 3 of PAIA.
- 6.2. In order to request access to records held by the IoDSA, the Requester must not only identify the right it is seeking to exercise or protect and explain why the record requested is required for the exercise or protection of that right but must also comply with all the procedural requirements set out in PAIA.
- 6.3. If the Requester requests information on behalf of a public body (i.e. state), the Requester must identify that the request for information is in the public's interest by stipulating adequate reasons.
- 6.4. If the Requestor is making a request on behalf of another person, sufficient proof (to the satisfaction of the IODSA) of the capacity in which the Requestor is making the request/acting must be submitted. The type of proof required will be advised by the IoDSA upon receipt of request.

Procedural Requirements

- 6.5. In order to facilitate such a request for access to records, the Requester needs to complete the prescribed access form attached hereto as Annexure “B”. Please note that the prescribed access form must be completed in full. If not, the process may be delayed until such additional information has been provided.

- 6.6. In terms of section 23(1) of POPI, adequate proof of identity is required from the Requestor/Data Subject. Therefore in addition to the prescribed access form, the Requestor will be required to supply a certified copy of their identification document or any other legally acceptable form of identification.
- 6.7. The request form and proof of identity must be provided to the Information Officer of the loDSA at the physical address or e-mail set out above. The loDSA may, in its sole discretion) request that original certified copies be provided in certain circumstances such as if the electronic copies provided are not clear or are questionable.
- 6.8. The Requester must provide sufficient detail on the prescribed access form to enable the Information Officer to identify the record requested. When completing the prescribed access form, the Requester should also indicate:
- which form of access is required;
 - the right the Requester is seeking to exercise or protect and explain why the requested record is required for the exercise or protection of that right;
 - whether the Requester wishes to be informed of the decision in any other manner, in addition to a written reply, to state the manner and necessary particulars to be so informed; and
 - an email address, telephonic contact numbers and postal address in the Republic of South Africa.
- 6.9. If a request is made on behalf of another person, the Requester must show, to the reasonable satisfaction of the CEO or the Information Officer, that he or she is duly authorised to make such request.
- 6.10. If an individual is unable to complete the prescribed access form because of illiteracy or disability, such an individual may make the request verbally.
- 6.11. The prescribed access form must be adequately completed, with sufficient information particularly so that the Information Officer of the loDSA can identify and determine what the access fee will be, should access be granted.
- 6.12. A request will not be processed until the request fee has been paid.

Refusal in terms of PAIA

- 6.13. The loDSA may refuse access to the requested record of parts thereof as allowed in terms of Chapter 4, namely section 62 till 70 (inclusive), of PAIA.
- 6.14. In instances whereby a third party needs to be notified of request in order to authorise or decline access – the loDSA CEO undertakes to request same from the third party within 21 (twenty one) days of receipt of the request and to include the required information provided for in terms of section 71(3) of PAIA.
- 6.15. In the event that the request is declined by the third party – the loDSA cannot be held responsible for same.

Notification of refusal or granting of access to information

- 6.16. Requestors will be informed within 30 (thirty) days of receipt of the prescribed access form if the loDSA's decision is to refuse access to the information requested based on any of the grounds for refusal as contemplated in Chapter 4 of Part 3 of the PAIA. Take note that the 30 (thirty) day period may be extended for a further 30 (thirty) day period should more time be required to gather the requested information. The Requester will, however, be notified if the initial 30 (thirty) day notice period is to be extended for a further 30 (thirty) days.

Refusal since the record cannot be found

- 6.17. If all reasonable steps have been taken by the loDSA to find the record requested by the Requester and same cannot be found for reasons justifiable as per section 55 of PAIA, the Information Officer shall provide an affidavit or affirmation to the Requester advising that it is not possible to give access to the record requested.
- 6.18. The affidavit or affirmation will comply with all the requirements provided for in terms of section 55(2) of the Act.
- 6.19. In the event the record is found subsequently, the loDSA undertakes to contact the Requester in order to gain access to same, subsequent to the payment of the applicable access fee.

7. Fees

- 7.1. There are two basic types of fees applicable in terms of PAIA – “request” and “access” fees.

Request Fee

- 7.2. The request fee is an administration fee that is payable on submission of the request for access to a record and must be paid before the request is considered (unless the request is to access the requestor's personal information in which event there is no applicable fee). The request fee is not refundable if the request for access has been granted however it is refundable if the request for access has been denied by the loDSA.
- 7.3. The request fee is currently statutorily set at R35-00 (thirty five Rand).
- 7.4. In line with section 23(1)(a) of POPI, a Data Subject (i.e. personal requestor) has a right to request the loDSA to confirm, free of charge, whether or not the loDSA holds personal information about the Data Subject

Access Fee

- 7.5. The access fee is payable prior to the Requester actually gaining of access to the records in the required form.

- 7.6. The access fee is intended to reimburse the IoDSA for the costs involved in reproduction of documents, searching and preparing the record requested and for any time reasonable required (in excess of the prescribed hours) to search and prepare the record.
- 7.7. Should the preparation of the required record take more than 6 (six) hours, a deposit (which is 1/3 (one third)) of the access fee is payable before the request will be processed by the IoDSA as a deposit.
- 7.8. The IoDSA may withhold a record until the Requester has paid the applicable fees (if any).
- 7.9. In accordance with Section 23(3) of the POPI, the IoDSA may charge an access fee to the Data Subject to enable the IoDSA to respond to the request. In such instances the IoDSA must provide the Data Subject with a written estimate of the fee before providing the services.

Notices

- 7.10. The CEO or the Information Officer shall provide the Requester with a Notice in terms of section 54(3) of PAIA on initial receipt and consideration of the request for access. This notice is Annexure C.
- 7.11. Once the request fee has been paid in full, the CEO or the Information Officer will consider the request for access and will provide the Requester with its decision to the request. This notice is Annexure D.

8. AVAILABILITY OF THE MANUAL

The Manual is available for inspection, free of charge, at the offices of the IoDSA, as set out in page 2 of this manual, as well as on the IoDSA's website at www.iodsa.co.za.

Information Officer

Subjects and categories of records held by the company: section 51(1) (e)

1. Companies Act Records

- Broad-Based Black Economic Empowerment Verification Certificate
- Codes of Conduct
- Documents of Incorporation
- Legal Compliance Records
- Licenses of Copyrights
- Memorandum of Incorporation
- Minutes of Board of Directors Meetings
- Policies
- Records relating to the appointment of directors/ auditors/ secretary/ public office and other officers

2. Financial Records

- Accounting Records
- Annual Financial Statements
- Asset Register
- Auditors' Report
- Bank Statements
- Banking Records
- Detail of Auditors
- Electronic Banking Records
- Invoices
- Paid Cheques
- Rental Agreements
- Tax Returns

3. Income Tax Records

- Documents issued to employees for income tax purposes
- PAYE Records
- Records of payments made to SARS on behalf of employees
- Value Added Tax Clearance Certificate
- All other statutory compliances:
 - Value Added Tax
 - Skills Development Levies
 - Unemployment Insurance Fund

4. Personnel Documents And Records

- Attendance Registers
- Disciplinary Code
- Disciplinary Records
- Employment Contracts
- Employment Equity Plan
- Leave Records
- Records containing all employees' names and occupation

- Salary Records
- Sector Education and Training Authority Records
- Training Manuals
- Training Records

5. Client Records

**In terms of the Consumer Protection Act No. 68 of 2008*

- Receipts
- Correspondence
- IoDSA Members
 - Personal information such as name, contact details, company information, work experience, educational history, race, gender.
- Advisory Services Clients
 - Correspondence
 - Client documentations
 - Advisory reports/memorandums
 - Company and contact details of relevant individuals.
- Director Development and Training Delegates
 - Delegate's personal information such as name, contact details, and attendance records.
- Events
 - Attendee's personal information such as name and contact details.

6. Supplier Records

- The name of the supplier
- The address of the supplier
- A description of the goods
- The quantity or volume of the goods
- Proof of date of payment

7. Electronic Communication and Transactions Records

- Record of the personal information and the specific purpose for which the personal information was collected

8. Insurance Records

- IoDSA General Insurance
- Professional Indemnity Insurance
- Directors and Officers Insurance

9. Immovable and Movable Property Records

- Agreements for the lease of movable property
- Agreements for the lease or sale of land and/or other immovable property
- Other agreements for the purchase, ordinary sale, conditional sale, or hire of assets

10. Miscellaneous Records

- Agency, management and distribution agreements
- Agreements for the trading activities of the business

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act 2 of 2000))
[Regulation 10]

A Particulars of private body

The Head:

B Particulars of person requesting access to the record

- | |
|--|
| <p><i>a. The particulars of the person who requests access to the record must be given below.</i></p> <p><i>b. The address and/or fax number in the Republic to which the information is to be sent must be given.</i></p> <p><i>c. 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

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

<p><i>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.</i></p>	
<p>Disability:</p> <hr/> <hr/> <hr/>	<p>Form in which record is required:</p>
<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>	

<p>1. If the record is in written or printed form:</p>			
<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
<p>2. If record consists of visual images: (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):</p>			
<input type="checkbox"/>	view the images	<input type="checkbox"/>	Copy the images*
<input type="checkbox"/>		<input type="checkbox"/>	transcription of the images*
<p>3. If record consists of recorded words or information which can be reproduced in sound:</p>			
<input type="checkbox"/>	listen to the soundtrack (audio)	<input type="checkbox"/>	transcription of soundtrack* (written or printed document)
<p>4. If record is held on computer or in an electronic or machine-readable form:</p>			
<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* (i.e. electronic copy)
<p>*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?</p> <p>Postage is payable</p>		<p>YES</p>	<p>NO</p>

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 _____ 20 _____

Signature of requester/person on whose behalf
request is made

IoDSA Notice in terms of Section 54(3) of PAIA

1. Please be advised the Requester is required to pay the prescribed request fee (if any), before further processing the prescribed access form is done.
2. Please be advised that in the event that:
 - (a) the search for the requested record for which a request for access by a Requester, has been made; and
 - (b) the preparation of the record for disclosure (including any arrangements contemplated in section 29 (2) (a) and (b) (i) and (ii) (aa)), would, in the opinion of the IoDSA, require more than the hours prescribed, the Requester is herewith requested to pay as a deposit, one third of the access fee.
3. The Requester is herewith advised that the aforesaid instance is applicable and therefore a required deposit is payable. Such amounts totals _____ (which is one third of the access fee, which amount is _____).
4. In the event that the Requester finds the aforesaid unacceptable, the Requester may lodge a complaint to the Information Regulator or an application with a court against the tender or payment of the request fee in terms of subsection (1), or the tender or payment of a deposit in terms of subsection (2), as the case may be.
5. The procedure for lodging the complaint stated in subsection 4 is available in the PAIA and its Regulations.

DATE AT SANDTON ON THE _____ DAY OF _____ 20____

From the desk of the Information Officer

IoDSA Decision Notice

Based on the prescribed access form, the Requested has requested access to documents stated therein and the IoDSA hereby:

Declines or Grants

1. In the event that the IoDSA grants access to the record – the access fee payable is _____ (in words).
2. The amount is calculated as following:

3. All exceptions, restrictions and parameters regarding access:

4. In the event that the request is granted but with issue, the Requester may lodge a complaint with the Information Regulator or an application with a court against the access fee to be paid or the form of access granted.
5. In the event that the IoDSA declines access to the record – the reasons for refusal are:

6. In the event that the request is declined, the Requester may lodge a complaint with the Information Regulator or an application with a court against the refusal of the request.