

PROMOTION OF ACCESS TO INFORMATION ACT, Act 2 of 2000

WELISA HOLDINGS (PTY) LTD
2004/008193/07

PROMOTION OF ACCESS TO INFORMATION ACT, ACT 2 OF 2000 ("The Act")

Copyright 1

MANUAL IN TERMS OF SECTION 51 OF THE ACT FOR WELISA HOLDINGS (PTY) LTD

INTRODUCTION

WELISA HOLDINGS (PTY) LTD (2004/008193/07) (further stated as "the company") was formed on 25 MARCH 2004.

PARTICULARS IN TERMS OF SECTION 51 OF THE ACT

The reference, in this Manual, to any information in addition to that specifically required in terms of Section 51 of the Act does not create any right or entitlement (contractual or otherwise) to receive such information, other than in terms of the Act.

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

Name of Private Body:	WELISA HOLDINGS (PTY) LTD
Designated Information Officer:	Vijver Jonck
Email address of Information Officer:	info@saasa.org.za
Postal address:	P.O. BOX 1190 PLETTENBERG BAY 6600
Street address:	REGISTERED OFFICE: 86 LONGSHIPS DRIVE PLETTENBERG BAY 6600
Phone number:	0445348906

2. The guide as described in section 10 of the Act [Section 51(1)(b)]

This guide on how to exercise your rights in terms of the Act is in the process of preparation by the SAHRC and is expected to be available in August 2003. When available, it can be obtained from the SAHRC.

Please direct any queries to:

The South African Human Rights Commission:

PAIA Unit: Research and Documentation Department

Postal address: Private Bag 2700
Houghton
2041

Telephone: +27 11 877-3645

Website: www.sahrc.org.za

E-mail: tsebulela@sahrc.org.za

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

Information is available in terms of the following legislation to the persons or entities specified in such legislation:

* Basic Conditions of Employment Act No. 75 of 1997

* Closed Corporation Act No. 69 of 1984

- * Companies Act No. 61 of 1973
- * 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
- * Employment Equity Act No. 55 of 1998
- * 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
- * Patents Act No. 57 of 1978
- * Promotion of Access to Information Act No. 2 of 2000
- * Skills development Levies Act No. 9 of 1999
- * Trademarks Act No. 194 of 1993
- * Unemployment Insurance Act No. 30 of 1966
- * Value Added Tax Act No. 89 of 1994.

4. How to request a record, a description of the subjects on which we hold records, and the categories of records held on each subject [Section 51(1)(e)]

4.1 How to request a record

Requests for access to records held by “the company” must be made on the request forms that are available from the SAHRC website (www.sahrc.org.za) or the Department of Justice and Constitutional Development website (www.doj.gov.za) (under “regulations”).

For the convenience of requestors, copies of these forms are included in the version of this Manual. Requests for access to records must be made to our Information Officer at the address, fax number or electronic mail address provided. The requester must provide sufficient detail on the request form to enable the Information Officer to identify the record and the requester.

The requester should also indicate which form of access is required and indicate if he or she wishes to be informed in any other manner and state the necessary particulars to be so informed. It is vital that the requester identifies the right that he or she is seeking to exercise or protect and provides an explanation of why the requested record is required for the exercise or protection of that right. 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 our Information Officer.

If a requestor does not use the standard form (Annexure 1), the request may be rejected for lack of procedural compliance, refused (if sufficient information is not provided, or otherwise) or delayed. Please note that requestors are also required to pay the prescribed fees. The list of prescribed fees in respect of requests, and in respect of access to records (if the request is granted) is attached as Annexure 2

The head of the private body must notify the requester (other than a personal requester) of the prescribed fee (if any) before further processing the request. The requester may lodge an internal appeal or an application to Court against the tender or payment of the request fee. The head of the private body will then make a decision on the request and notify the requester in the required form. If the request is granted then a further access fee must be paid for the reproduction and the search and preparation, and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

Kindly note that all requests to “the company” will be evaluated and considered in accordance with the Act. Publication of this Manual and describing the categories and subject matter of

information held by [WELISA HOLDINGS] does not give rise to any rights to access such information or records, except in terms of the Act.

4.2 Subjects and categories of records held by “the company”

We maintain records on the following categories and subject matters. However, please note that recording a category or subject matter in this Manual does not imply that a request for access to such records would be honoured. All requests for access will be evaluated on a case by case basis in accordance with the provisions of the Act. In particular, there may be applicable grounds of refusal of such a request, as set out in the Act.

Please note further that many of the records held by us are those of third parties, such as clients and employees, and we take the protection of third party confidential information very seriously. Many of the records held are confidential and others are the property of the client and not of “the company”. Requests for access to these records will be considered very carefully. Please ensure that requests for such records are carefully motivated.

4.2.1: Internal records

The following are records pertaining to “the company's” own affairs:

- Memoranda and Articles of Association – for Companies and any amendments thereto in terms of the new Companies Act 2008
- Financial records
- Operational records
- Intellectual property
- Marketing records;
- Internal correspondence;
- Service records;
- Statutory records – for Companies
- Internal policies and procedures – where applicable
- Minutes of meetings – where applicable
- Records held by officials of “the company”

4.2.2: Personnel records:

For the purposes of this section, “personnel” means any person who works for or provides services to or on behalf of “the company” and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting the business of “the company”. This includes, without limitation, partners / directors, all permanent, temporary and part-time staff as well as consultants and contract workers.

Personnel records include the following:

- Any personal records provided to us by our personnel;
- Any records a third party has provided to us about any of their personnel;
- Conditions of employment and other personnel-related contractual and quasi-legal records;
- Employment policies and procedures;
- Internal evaluation and disciplinary records; and
- Other internal records and correspondence.

4.2.3: Client-related records:

Client-related information includes the following:

- Contracts with the client and between the client and other persons;

- Any records a client has provided to “the company” or a third party acting for or on behalf of “the company” (including financial, legal, tax, operational, employee and similar records);
- Any records a third party has provided to “the company”, which concerns a client; and
- Records generated by or within “the company” pertaining to the client, including transactional records.

4.2.4: Other Parties:

- Records may be kept in respect of other parties, from time to time.

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

No such information has been prescribed.

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

This manual is available from the South African Human Rights Commission (see details above), and from “the company” (see details above).



REPUBLIC OF SOUTH AFRICA

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:

[Large empty rectangular box for providing particulars of the private body]

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: [Text box]
Identity number: [Grid of 13 boxes]
Postal address: [Text box]
Telephone number: (.....) [Text box] Fax number: (.....) [Text box]
E-mail address: [Text box]
Capacity in which request is made, when made on behalf of another person: [Text box]

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: [Text box]
Identity number: [Grid of 13 boxes]

FORM C: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

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:

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2. Reference number, if available:

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3. Any further particulars of record:

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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:

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FORM C: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

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 below, state your disability and indicate in which form the record is required.

Disability:	<input type="text"/>	Form in which record is required:	<input type="text"/>
Mark the appropriate box with an X.			
NOTES:			
(a) Compliance with your request for access 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 to 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	<input type="checkbox"/>	<input type="checkbox"/>
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"/>	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)	<input type="checkbox"/>	<input type="checkbox"/>
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"/>	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 <input type="checkbox"/>	NO <input type="checkbox"/>
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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:

FORM C: REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

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 year

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

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Tel: (011) 877 3600

Fax: 011 403 0625

Physical Address
33 Hoofd Street
Braampark Forum 3
Braamfontein
2198

Postal Address
Private Bag X 2700
Houghton
2041



NOTICE IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION 2 OF 2000
RE: FEES ASSOCIATED WITH PAIA REQUESTS ARE DETERMINED BY THE
REGULATIONS ONLY AND NOT THROUGH OTHER APPLICABLE LAWS OR POLICIES

This Notice serves to state that the South African Human Rights Commission (the Commission) hereby confirms that the costs associated with all requests made under the Promotion of Access to Information Act 2 of 2000 (PAIA) are determined by the Regulations relating to PAIA only, and not by any other laws or regulations. Therefore, any demands made by a public or private body for the payment of additional fees with respect to PAIA requests are invalid.

The Commission is an independent public body currently mandated under PAIA to monitor the implementation of the Act. In accordance with its responsibilities to ensure compliance with PAIA, the Commission issues this notice to bring clarity to all interested parties that it is *only* the Minister of Justice and Constitutional Development who has the power to make decisions regarding fees associated with PAIA requests. The Commission further confirms that Value-Added Tax (VAT) is only payable by institutions who have registered as VAT vendors.

1. The Promotion of Access to Information Act

PAIA gives effect to the constitutional right to access of information, as provided for under section 32 of the Constitution. Although responding to requests and reproducing records in an accurate and orderly manner takes time and resources, section 9 of the Act specifically calls for the establishment of mandatory mechanisms and procedures to ensure that access to records of both public and private bodies is "as swiftly, *inexpensively* and effortlessly as reasonably possible." [emphasis added].

Furthermore, section 92 of the Act grants the Minister of Justice and Constitutional Development the power to make regulations pertaining to fees associated with requests made to both public and private bodies.

2. Regulations to PAIA

In February 2002, the Minister of Justice and Constitutional Development published a schedule of fees for PAIA requests in the Gazette, which provided for the following:

Fees for Requesting Records

Requesters are required to pay a fee for requesting access to records from both public and private bodies. The fee for requesting records from a public body is R35, while the fee for requesting records from a private body is R50. It is important to note that people who are requesting access to their personal information are exempt from paying a fee. Furthermore, people who earn less than R14,712 per annum (if single) and R27,192 per annum (if married or have a life partner), are also exempt from paying the request fees.

Fees for Accessing Records

Requesters are also required to pay fees for accessing the records of public and private bodies, which include fees associated with the search for, preparation of, and reproduction of documents. The breakdown of fees for requests to both public and private bodies are as follows:

Public Bodies:

- Copy per A4 page – 60 cents
- Printing per A4 page – 40 cents
- Copy on a CD – R40
- Transcription of visual images per A4 page – R22
- Copy of a visual image – R60
- Transcription of an audio recording per A4 page – R12
- Copy of an audio recording – R17
- Search and preparation of the record for disclosure – R15 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation
- Actual postage fee

Private Bodies:

- Copy per A4 page – R1.10
- Printing per A4 page – 75 cents
- Copy on a CD – R70
- Transcription of visual images per A4 page – R40
- Copy of a visual image – R60
- Transcription of an audio recording per A4 page – R20
- Copy of an audio recording – R30
- Search and preparation of the record for disclosure – R30 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation
- Actual postage fee

3. Registered VAT Vendors

The Commission further confirms that Value-Added Tax (VAT) is only payable by institutions who have registered as VAT vendors, as required under section 23 of the Value-Added Tax Act of 1991.

Sincerely,

Advocate L.M. Mushwana
Chair of the South African Human Rights Commission

Transforming society. Securing rights. Restoring dignity

Chairperson: ML Mushwana; Deputy Chairperson: P Govender; Commissioners: L Mokate, B Malatji, J Love, D Titus
Chief Executive Officer: K Ahmed