

# **MANUAL**

In terms of Section 51 of the

## **PROMOTION OF ACCESS TO INFORMATION ACT**

(ACT 2 OF 2000)

("hereinafter referred to as "the Act")

**of**

***FRAXION (PTY) LTD***  
***REG.NO. 2000/026407/07***

(hereinafter referred to as "the Company")

## 1 BACKGROUND TO PROMOTION OF ACCESS TO INFORMATION 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 which 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.**

Where a request is made in terms of the Act to a private body, that private body must disclose the information if the requester is able to show that the record is required for the exercise or protection of any rights, and **provided that no grounds of refusal contained in the Act are applicable.** The Act sets out the requisite procedural issues attached to information requests. In terms of Section 51 of the Act the company is required to compile a Manual, which provides information as prescribed in the Act.

## 2 PURPOSE OF THE MANUAL

This manual is intended to foster a culture of transparency and accountability, by giving effect to the right to information held by a private body 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.

**Section 9** of the Act recognises that justifiable limitations of the right to access to information may be permitted. Such justifiable limitations include but are not limited to:

- Reasonable protection of privacy;
- Commercial confidentiality; and
- Effective, efficient and good governance;

The manual provides a generic format, which will enable requesters to obtain the records, which they are entitled to under the Act in a quick and accessible manner.

## 3 PART I

### 3.1 INTRODUCTION TO THE COMPANY

The company is a private body and carries on the business of software development and retail.

### 3.2 COMPANY CONTACT DETAILS

The designated person is: Stanton Jandrell

Physical address: 102 Mariendahl House, Newlands On Main, Cnr Campground and Main Road, Newlands, 7700

Postal address: P O Box 23889, Claremont, 7735

Telephone number: 021 – 683 5310

Facsimile: 021 – 683 5311

Website: [www.spendmanagement.com](http://www.spendmanagement.com)

E-mail: [stantonj@fraxion.biz](mailto:stantonj@fraxion.biz)

#### 4 PART II

##### **GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

The South African Human Rights Commission has as yet not yet compiled the guide contemplated in Section 10 of the Act. The guide will contain such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act and will accordingly:

- contain information on how to use the Act
- include:
  - the objects of the Act
  - particulars of every public and private body
  - the manner and form for requests
  - contents of the Regulations promulgated under the Act
- will be updated and published every two years
- will be available by no later than August 2003

The guide and any queries relating thereto can be requested directly from the South African Human Rights Commission at:

The South African Human Rights Commission  
The PAIA Unit (Research And Documentation Department)  
Private Bag X2700, Houghton, 2041  
Telephone Number: (+27-11) 484 8300;  
Facsimile Number: (+27-11) 484 1360;  
Website : [www.sahrc.org.za](http://www.sahrc.org.za)  
E-mail : [paia@sahrc.org.za](mailto:paia@sahrc.org.za)

#### 5 PART III

##### **DESCRIPTION OF THE SUBJECTS AND RECORDS OF THE COMPANY AVAILABLE IN TERMS OF ANY OTHER LEGISLATION TO MEMBERS OF THE GENERAL PUBLIC - (Section 51(1)(d))**

This clause serves as a reference to the records that the Company may hold in order to facilitate a request in terms of the Act.

It is recorded that the accessibility of the documents listed herein below, may be subject to the grounds of refusal set out hereinafter. The documents as listed are not automatically readily available and every request will be reviewed on its merits.

The information is classified and grouped according to records relating to the following subjects and categories:

##### **5.1 PERSONAL RECORDS**

Personnel files\*  
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  
Policies and procedures  
Forms and applications

Standard letters and notices

Retirement fund – rules

Department of Labour report – Employment Equity Plan

*\* “Personnel” refers to any person who works for, or provides services to or on behalf of the company, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of the company. This includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff, as well as contract workers.*

## **5.2 CUSTOMER RELATED RECORDS**

Records provided by a customer to a third party acting for or on behalf of a company in the banking industry.

Records provided by a third party.

Records generated by or within The company in the banking industry relating pertaining to its customers, including transactional records.

A “customer” refers to any natural or juristic entity that receives services from the company.

## **5.3 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

Records held by officials of The company

*These records include, but are not limited to, the records which pertain to the company’s own affairs.*

## **5.4 OTHER PARTY RECORDS**

Personnel, customer or private body records which are held by another party, as opposed to the records held by the company itself.

Records held by the company pertaining to other parties, including without limitation, financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.

The company 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 the company.

## **5.5 COMPANY SECRETARIAL RECORDS**

Minute books

Company registers

Annual Financial Statements

Memoranda and Articles of Association

Correspondence

Share Certificates  
Company agreements  
Returns to Registrar of Companies  
Attendance registers for meetings  
Agendas for meetings  
Dividend lists

## **5.6 MARKETING**

Advertising and marketing material (brochures, leaflets)

## **6 DESCRIPTION OF RECORDS AVAILABLE IN TERMS OF ANY OTHER LEGISLATION TO MEMBERS OF THE GENERAL PUBLIC – (Section 51(1)(D))**

### **6.1 COMPANIES ACT NO 61 OF 1973**

- (a) All documents of incorporation of The company are lodged at the offices of the Registrar of Companies, and may be inspected there. The documents include the memoranda and articles of association as well as the relevant forms of each company comprising of The company.
- (b) The register of members and register of transfer (of members) of each company comprising of The company are available for inspection at the registered office of the relevant company.
- (c) Special resolutions are lodged with the Registrar of Companies and are therefore available for inspection.
- (d) A register of the directors' and officials' interests in contracts entered into by each company comprising of The company is kept at the registered office of the relevant company, and is available for inspection.

## **7 PROCEDURE OF HOW RECORDS CAN BE OBTAINED (manner of access) – (Section 51(1)(E))**

- 7.1** The requester must comply with all the procedural requirements as set out in the Act relating to the request for access to a record.
- 7.2** The requester must complete the prescribed form to make the request and submit same as well as payment of a request fee and a deposit (if applicable), to the Information Officer or Deputy Information Officer at the postal, physical address, facsimile number or e-mail address as noted in Part I 3.2 (See Annexure A).
- 7.3** The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify:
  - (a) the record or records requested;
  - (b) the identity of the requester;
  - (c) which form of access is required, if the request is granted;
  - (d) the postal address or fax number of the requester within the Republic.
- 7.4** **The requester must state the he/she requires 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. The requester must clearly specify why the record is necessary to exercise or protect such a right. (s51(2)(d))**
- 7.5** The company will process the request within 30 days, unless special circumstances dictate that the time period may be extended.
- 7.6** If the request is for a record pertaining to a third party, the Information Officer must take all reasonable steps to inform that third party of the request. This must be done within 21 days of the request.
- 7.7** The requester shall be informed whether access granted or denied. If the requester requires reasons for the decision in any other manner, the requester will be obliged to state the manner and the particulars so required.

- 7.8 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. (s53(2)(f))
- 7.9 If an individual is unable to complete the prescribed form because of illiteracy or disability, such request may be made orally.
- 7.10 The requester must pay the prescribed fee, before any further processing can take place.
- 7.11 All information as listed in 7.3 above should be provided, **failing which the process will be delayed until the required information is provided.** The prescribed time periods will not commence until the requester has furnished all the necessary information.
- 7.12 The Information Officer may sever a record, if possible, and grant access only to that portion which the law does not prohibit access to.

## 8 PRESCRIBED FEES

- 8.1 **The Act provides for two types of fees, namely:**
  - (a) A request fee, which is a form of administration fee to be paid by all requesters except personal requesters, before the request is considered and which is not refundable; and
  - (b) An access fee, which is paid by all requesters in the event that a request is granted. This fee is inclusive of costs involved in obtaining and preparing a record for delivery to the requester.
- 8.2 When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing of the request. (s54(1))
- 8.3 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 shall notify the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.
- 8.4 Information may be withheld until the request fee and the deposit (if applicable) have been paid.
- 8.5 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 request form. (S54(6))
- 8.6 If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer must repay the deposit to the requester.

## 9 INFORMATION OR RECORDS NOT FOUND

- 9.1 If a requested record cannot be found or if the record does not exist, the Information Officer shall, by way of an affidavit or affirmation, notify the requester that it is not possible to give access to the requested record.
- 9.2 The affidavit or affirmation shall provide full details of all the steps taken to find the record or to determine its existence, including details of all communications by the Information officer with every person who conducted the search.
- 9.3 This notice will be regarded as a decision to refuse a request for access to the record concerned for the purposes of the Act.
- 9.4 If the record should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form, unless the Information Officer refuses access.

- 9.5 The attention of the requester is drawn to the provisions of Chapter 4, Part 3 of the Act in terms of which The company may refuse, on certain specified grounds, to provide information to a requester.

## **10 INFORMATION REQUESTED ABOUT A THIRD PARTY**

- 10.1 Chapter 5, Part 3 of the Act specifies the procedure regarding a request for information or records about a third party.
- 10.2 In considering such a request, the company will adhere to the provisions of the Act. Section 71 requires that the Information Officer take all reasonable steps to inform the third party of the request within 21 days of receipt of the request. The third party may within 21 days thereafter either make representations as to why the request should be refused, or grant written consent of the disclosure. The third party must be advised of both the decision taken and of his/her right of appeal against the decision by way of application to court within 30 days after the notice.

## **11 GROUNDS FOR REFUSAL OF A REQUEST**

The company is entitled to refuse a request for information on the following grounds:

- 11.1 Section 63 provides for the 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.
- 11.2 Section 64 provides for the 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;
  - information disclosed in confidence by a third party to the Company, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- 11.3 Section 65 provides for the mandatory protection of confidential information of third parties if such disclosure would constitute a breach of duty of confidence owed to such party in terms of any agreement;
- 11.4 Section 66 provides for the mandatory protection of the safety of individuals and the protection of property;
- 11.5 Section 67 provides for the mandatory protection of records which would be regarded as privileged in legal proceedings;
- 11.6 Section 68 provides for protection of the commercial activities of a private body such as The company, which may include:
- trade secrets of The company;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of The company;
  - information which, if disclosed could put The company at a disadvantage in negotiations or commercial competition;
  - a computer program which is owned by The company, and which is protected by copyright.
- 11.7 Section 69 provides for the protection of research information of The company or a third party, if its disclosure would place The company, the third party or the subject matter of the research at a serious disadvantage.

**All requests will be assessed on their own merits and in accordance with the applicable legal principles and legislation.**

## **12 REMEDIES AVAILABLE WHEN A REQUEST IS REFUSED**

### **12.1 INTERNAL REMEDIES**

The company does not have internal appeal procedures. 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.

### **12.2 EXTERNAL REMEDIES**

A requestor that is dissatisfied with an 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 an 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.

The courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and a Magistrate's Court designated by the Minister of Justice and Constitutional Development, and which is presided over by a designated magistrate.

## **13 UPDATING OF MANUAL**

The company will update this manual at such intervals as may be deemed necessary.



Prescribed Form To Be Completed By A Requester

**A. Particulars of The Company**

Information Officer:

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**B. Particulars of person requesting access to the record**

- (a) *The particulars of the person who requests access to the records must be recorded below.*
- (b) *Furnish an address and/or fax number in the Republic to which information must be sent.*
- (c) *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full Name and Surname: \_\_\_\_\_

Identity Number: \_\_\_\_\_

Postal

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail

address: \_\_\_\_\_

Capacity in which request is made, when made on behalf of another person:

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**C. Particulars of person of whose behalf request is made:**

*This section must be completed only if a request for information is made on behalf of another person. Proof is required for authority in the form of a letter of authorisation from the person on whose behalf the request is made and a certified copy of the identity documents of the requester and person on whose behalf the request is made is required*

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 the Record or relevant part of the record:

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2. Reference number (if known): \_\_\_\_\_

3. Any further particulars of the 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 of the request fee.*
- (c) *The **fee payable for access** to a record depends on the form in which the 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 therefore.*

Reason for exemption of payment of fees:

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**F. Form of Access to the 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: _____ _____ _____
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Mark the appropriate box with an "X"

**NOTES:**

- (a) *Your indication as to the required form of access depends 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:**

	Copy of record *		Inspection of record
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**2. If the record consists of visual images:**

(This includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

	View the images		Copy of the images *		Transcription of the images*
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**3. If the record consists of recorded words or information which can be reproduced in sound:**

	Listen to the soundtrack (audio cassette)		Transcription of soundtrack * (written or printed document)
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**4. If the record is held on computer or in an electronic or machine-readable form:**

	Printed copy of record		Printed copy of information derived from the record *		Copy in computer readable form * (stiffy or CD)
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\* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?

**A postal fee is payable.**

YES

NO

**G. Particulars of right to be exercised or protected:**

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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***

Indicate which right is to be exercised or protected:

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Explain why the requested record is required for the exercising or protection of the aforementioned right:

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**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 thereof 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?

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Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_\_

\_\_\_\_\_  
Signature of Requester or Person on whose behalf request is made

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### Reproduction Fees

The applicable fees for reproduction as referred to above are:

The cost to access, reproduce, search for and/or prepare any of the above-mentioned records, unless otherwise agreed, is:

- For every photocopy of an A4-size page or part thereof  
R 1,10
- For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form  
R 0,75
- For a copy in a computer-readable form on
  - floppy disc  
R 7,50
  - compact disc  
R70,00
- A transcription of visual images, for an A4-size page or part thereof  
R40,00
- For a copy of visual images  
R60,00
- A transcription of an audio record, for an A4-size page or part thereof  
R20,00
- For a copy of an audio record  
R30,00

### Request Fees

Where a requester submits a request for access to information held by The Company on a person other than the requester himself/herself, a request fee in the amount of R50,00 is payable up-front before The Company 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 photocopy of an A4-size page or part thereof  
R 1,10
- For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form  
R 0,75
- For a copy in a computer-readable form on
  - stiffer disc  
R 7,50
  - compact disc  
R70,00
- A transcription of visual images, for an A4-size page or part thereof  
R40,00
- For a copy of visual images  
R60,00
- A transcription of an audio record, for an A4-size page or part thereof  
R20,00
- For a copy of an audio record  
R30,00
- To search for and prepare a record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.
  
- For purposes of s 54(2) of the Act, the following applies:
  - six man hours will be the limit set before a deposit is payable and
  - one third of the access fee is payable as a deposit by the requester
  - the postage is payable when a copy of a record must be posted to a requester.
- Where a copy of a record needs to be posted the actual postal fee is payable.

**Please note: all fees are exclusive of VAT**

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