



EMERALD
AFRICA

INFORMATION PAIA MANUAL

OF

EMERALD RISK TRANSFER (PTY) LIMITED

**PREPARED IN ACCORDANCE WITH SECTION 51 OF THE
PROMOTION OF ACCESS TO INFORMATION ACT, NO. 2 OF 2000
("THE ACT")**

1. **BACKGROUND TO THE PROMOTION OF ACCESS TO INFORMATION ACT**

- 1.1 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 in terms of Section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 108 of 1996 (**“the Constitution”**), 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.
- 1.2 Where a request is made in terms of this Act, the private or public body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The Act sets out the relevant procedure to be adopted when requesting information from a Public or a Private Body.

2. **COMPANY OVERVIEW**

- 2.1 The Company is an underwriting company established in accordance with the laws of South Africa with registration number 1998/025512/07.
- 2.2 The Company is also an authorised financial services provider authorised to underwrite short term insurance.
- 2.3 This PAIA manual is available for viewing at its premises as well as on its website.
- 2.4 The Company’s address is Emerald House, Waterford Office Park, Waterford Drive, Fourways, 2055.
Website: www.emeraldsa.co.za

3. **CONTACT DETAILS OF THE CHIEF EXECUTIVE OFFICER AND INFORMATION OFFICER**

- 3.1 Any person who wishes to request any information from the Company with the aim of protecting or exercising a right may contact the Information Officer whose contact details are as follows:

- | | | |
|--------------------|---|--|
| 3.2 Name | : | Carla Jordan |
| Registered address | : | Emerald House, Waterford Office Park,
Waterford Drive, Fourways, 2055 |
| Postal address | : | Suite 354, Private Bag X51, Bryanston, 2021 |
| Phone number | : | 011 658 8200 (switchboard) |
| Email address | : | carla@emeraldsa.co.za |



4. **HUMAN RIGHTS COMMISSION GUIDELINE**

- 4.1 The South African Human Rights Commission has compiled the Guide as required in terms of Section 10 of the Act. The Guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act.
- 4.2 The Guide is available in all the official languages of the Republic of South Africa.
- 4.3 Any enquiry regarding this Guide should be directed to:

The South African Human Rights Commission
Private Bag X2700
Houghton
2041
Tel: 011 877 3600
Fax: 011 403 0688
Website: www.sahrc.org.za

5. **WHO MAY REQUEST INFORMATION IN TERMS OF THE ACT**

Any person who requires information for the exercise or protection of any rights, may request information from a private body. Section 50 of the Act states that:

- “(1) A requester must be given access to any record of a private body if –***
- (a) that record is required for the exercise or protection of any rights;***
 - (b) that person complies with the procedural requirements in this Act relating to a request for access to that record; and***
 - (c) access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.”***

6. **REQUEST PROCEDURE**

- 6.1 In terms of Section 53, a request for access to a record of the Company must be made in the prescribed form to the Company at the address, or electronic mail address given above. The form requires the requester to provide the following information:
- 6.1.1 sufficient information to enable the Information Officer to identify the requester;
 - 6.1.2 sufficient information to enable the Information Officer to identify the record(s) requested;
 - 6.1.3 the form of access required;
 - 6.1.4 the requester’s postal address or fax number in the Republic,



- 6.1.5 identification of the right sought to be exercised or protected;
 - 6.1.6 an explanation on why the record is required to exercise or protect that right;
 - 6.1.7 if in addition to a written reply, the requester wishes to be informed of the decision in any other manner, to state that manner and the necessary particulars to be so informed.
- 6.2 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.
- 6.3 Refer to **Annexure A** to this manual for the format of the prescribed form. Requesters please note that all the information listed above should be provided, failing which the process will be delayed while the Company requests such additional information. The prescribed time periods will not commence until all pertinent information has been furnished to the Company by the requester.
- 6.4 The requester must pay the prescribed fee, before any further processing can take place. Payment of fees is regulated in terms of Section 54 of the Act. The Regulations to the Act provides for two types of fees:
- 6.4.1 **Request fee:** This is a non-refundable administration fee paid by all requesters, with the exclusion of personal requesters. (Refer to paragraph 6.7.1 below for the definition of personal requester). It is paid before the request is considered.
 - 6.4.2 **Access fee:** This is paid by all requesters only when access is granted. This fee is intended to re-imburse the private body for the costs involved in searching for a record and preparing it for delivery to the requester.
- 6.5 The Company may withhold a record until the request fee and the deposit (if applicable) have been paid. Refer to **Annexure B** below for a list of applicable fees.
- 6.6 **Requester other than Personal Requester**
- 6.6.1 The Information Officer must give written notice to a requester, other than a personal requester of the request fee and amount to be paid before the request may be further processed.
 - 6.6.2 If in the Information Officer's opinion the search for a record, or preparation of the record for disclosure will require more than the prescribed hours, the Information Officer may require the requester to pay a deposit, not being more than one third of the access fee that would be



payable if the request is granted. If the request is declined, the deposit must be repaid to the requester.

- 6.6.3 The notice given by the Information Officer must advise the requester that s/he has the right to apply to court against the payment of the request fee or deposit, and should also advise of the procedure of the application.

6.7 Personal Requester

- 6.7.1 A personal requester is described in the Act, as a requester seeking access to a record containing personal information about the requester.

- 6.7.2 A personal requester is not liable to pay a request fee, but is liable for payment of access fees in the event of a request being granted, but may not be required to pay a deposit before granting of the record.

7. CATEGORIES OF RECORDS

7.1 Human Resources Division

- 7.1.1 Records found in this division contain information of employees that include the following:

- 7.1.1.1 any personal records provided to the Company by the employee/personnel;
- 7.1.1.2 any records a third party has provided to the Company about its personnel;
- 7.1.1.3 conditions of employment and other personnel-related contractual and quasi legal records;
- 7.1.1.4 internal evaluation records;
- 7.1.1.5 other internal records and correspondence related to the particular employee including but not limited to leave records, training records, disciplinary records, salary records, pension fund records, medical aid records.

7.2 Client-related records

- 7.2.1 Clients include both juristic and natural entities that have received a service from the Company.

- 7.2.2 This information includes:

- 7.2.2.1 any records a client has provided to a third party acting for and on behalf of the Company;
- 7.2.2.2 any records a third party has provided to the Company; and



- 7.2.2.3 records generated by or within the Company pertaining to the client, including transactional records.

7.3 Company records

- 7.3.1 This category of records relates, but is not limited to, the following information:-

- 7.3.1.1 Financial records.
- 7.3.1.2 Operational records.
- 7.3.1.3 Databases.
- 7.3.1.4 Information technology.
- 7.3.1.5 Marketing records.
- 7.3.1.6 Internal correspondence.
- 7.3.1.7 Product records.
- 7.3.1.8 Statutory records.
- 7.3.1.9 Internal policies and procedures.
- 7.3.1.10 Treasury related records.
- 7.3.1.11 Securities and equities.
- 7.3.1.12 Records held by officials of the Company.

- 7.3.2 Each request will be evaluated on its own merits. If any record falls within any of the categories of exemptions, then such a request will be refused.

7.4 Other Parties

- 7.4.1 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.

7.4.2 The following records fall under this category:

- 7.4.2.1 Personnel, client or the Company records which are held by another party as opposed to being held by the Company; and
- 7.4.2.2 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/service providers.



7.5 Records available in terms of other legislation

7.5.1 The requester may also request information that is available in terms of legislation, such as the following:-

- 7.5.1.1 Basic Conditions of Employment Act (No. 75 of 1997).
- 7.5.1.2 Compensation for Occupational Injuries & Diseases Act (No. 130 of 1993).
- 7.5.1.3 Employment Equity Act (No. 55 of 1998).
- 7.5.1.4 Labour Relations Act (No. 66 of 1995).
- 7.5.1.5 Occupational Health and Safety Act (No. 85 of 1993).
- 7.5.1.6 Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000).
- 7.5.1.7 Skills Development Act (No. 97 of 1998).
- 7.5.1.8 Skills Development Levies Act (No. 9 of 1999).
- 7.5.1.9 South African Qualifications Authority Act (No. 58 of 1995).
- 7.5.1.10 Companies Act (Act No. 97 of 1998).
- 7.5.1.11 Short Term Insurance Act (Act No. 53 of 1998).
- 7.5.1.12 Financial Advisory and Intermediary Services Act (Act No. 37 of 2002).
- 7.5.1.13 Financial Intelligence Centre Act (Act No. 38 of 2001).
- 7.5.1.14 Financial Services Laws General Amendment Act (Act No. 45 of 2013).
- 7.5.1.15 Financial Markets Control Act (Act No. 55 of 1989).
- 7.5.1.16 Financial Services Board Act (Act No. 97 of 1990).

Records relating to company reporting and Company related records as far as is allowed in terms of the above Acts may be requested.

- 7.5.1.17 Income Tax Act (No. 58 of 1962 as amended).
- 7.5.1.18 Value Added Tax Act (No. 89 of 1991).

Records relating to tax, employees and the Company may be requested in terms of the above Acts.

7.6 The Information Officer will take into consideration section 8 of the manual to decide on whether or not access to any of the information stated above should be given to the requester.

8. **DECISION MAKING PROCESS**

8.1 In terms of Section 55, the Information Officer will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the Information Officer must notify the requester by way of an affidavit or



affirmation, that it is not possible to give access to the record. This is deemed to be a refusal of the request. If, however, the record is later found, the requester must be given access if the request would otherwise have been granted.

8.2 Section 56 provides that the Information Officer must within 30 days of receipt of a correctly completed request, notify the requester of the decision as to whether or not to grant the request. If the request is:

8.2.1 **Granted:** the notification must state the applicable access fee required to be paid, together with the procedure to be followed should the requester wish to apply to court against such fee, and the form in which access will be given.

8.2.2 **Declined:** the notification must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon, and provide the procedure to be followed should the requester wish to apply to court against the decision.

8.3 The Information Officer may extend the period of 30 days by a further period not exceeding 30 days if:

8.3.1 the request is for a large number of records or requires a search through a large number of records;

8.3.2 the request requires a search for records located outside of the Company's offices;

8.3.3 consultation with another private body is required; or

8.3.4 the requester consents to the extension.

8.4 The requester must be notified within the initial 30 day period in writing of the extension, together with reasons therefor, and the procedure involved should the requester wish to apply to court against the extension.

8.5 The Information Officer's failure to respond to the requester within the 30 day period constitutes a deemed refusal of the request.

8.6 Section 59 provides that the Information Officer may serve a record and grant access only to that portion which the law does not prohibit access to.

8.7 If access is granted, access must be given in the form that is reasonably required by the requester, or if the requester has not identified a preference, in a form reasonably determined by the Information Officer.

9. **THIRD PARTIES**

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 receipt of the request. The manner in which this is done must be in the fastest means reasonably possible, but if orally, the Information Officer must thereafter give the third party written confirmation of the notification. The third party may within 21 days thereafter either make representation to the Company as to why the request should be refused, alternatively grant written consent to the disclosure of the record. The third party must be advised of the decision taken by the Information Officer on whether to grant or decline the request, and must also be advised of his/her/its right to appeal against the decision by way of application to court within 30 days after the notice.

10. **GROUND FOR REFUSAL OF A REQUEST**

10.1 Notwithstanding compliance with Section 50, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:

10.1.1 Section 63 of the Act prohibits the unreasonable disclosure of personal information about a third party natural person. This includes the personal information of deceased individuals. However, Section 63(2) does provide exceptions to this.

10.2 Section 64 states that a request must be refused if it relates to records containing third party information pertaining to:

10.2.1 trade secrets;

10.2.2 financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or

10.2.3 information, supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice in the third party in commercial competition.

The information must, however be released if it pertains to the results of products or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

10.3 Section 65 prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.

10.4 In terms of Section 66, the Company must refuse a request for access to a record of the body if disclosure could reasonably be expected to:



- 10.4.1 endanger the life or physical safety of an individual;
 - 10.4.2 prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property;
 - 10.4.3 The Company, may also refuse a request for access to information that would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public or the security of property.
- 10.5 Section 67 mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.
- 10.6 Section 68 pertains to records containing information about the Company itself and unlike the other provisions pertaining to decline of a request, is not mandatory, but rather discretionary. The Company may refuse access to a record if the record:-
- 10.6.1 contains trade secrets of the Company;
 - 10.6.2 contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Company;
 - 10.6.3 contains information which, if disclosed, could reasonably be expected to put the Company at a disadvantage in contractual or other negotiations, or prejudice the Company in commercial competition; or
 - 10.6.4 consists of a computer program owned by the Company, except insofar as it is required to give access to a record to which access is granted in terms of the Act.

Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing or other investigation the disclosure of which would reveal a serious public safety or environment risk.

- 10.7 Section 69 prohibits the disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to the Company itself.
- 10.8 Notwithstanding any of the abovementioned provisions, Section 70 provides that a record must be disclosed if its disclosure would:-
- 10.8.1 reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and

10.8.2 If the public interest in the disclosure clearly outweighs the harm.

11. **RIGHT OF APPEAL**

11.1 A requester that is dissatisfied with the Information Officer's refusal to grant access to any information may, within 30 days of notification of the decision, apply to court for relief. Likewise, a third party dissatisfied with the Information Officer's decision to grant a request may, within 30 days of notification of the decision, apply to court for relief.

11.2 It should be noted that notwithstanding any provision in the Act, the court may examine the record(s) in question. No record may be withheld from the court on any grounds. The court may not, however, disclose the contents of the record(s).

11.3 The court is empowered to grant any order that is just and equitable, including:-

- 11.3.1 confirming, amending or setting aside the Information Officer's decision;
- 11.3.2 requiring the Information Officer to take any action, or refrain from taking any action as identified by the court within a specific period;
- 11.3.3 granting an interdict, interim or special relief, declaratory order or compensation; or
- 11.3.4 an order as to costs.



ANNEXURE A

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

Full names and surname: _____

Identity number: _____

Postal address: _____

Fax number: _____

Telephone: _____ E-mail address: _____

Capacity in which request is 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 particular of the record to which access is required, 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 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: _____ _____ – _____ – _____ – _____ –
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Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request in specified form may depend on the form in which the records 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 writing or printed form:

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

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

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

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

	Printed copy or record*		Printed copy of information derived from the record*		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: _____

Signed at _____ on this the _____ day of _____ 20

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

ANNEXURE B

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 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 50,00
4. The access fees payable by a requester referred to in regulation 11(3) are as follows:
 - 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 and 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, R 30,00 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 requester.