

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

**NO 2 OF 2000**

**(hereinafter referred to as the “Act”)**

### **1. Introduction**

The Promotion of Access to Information Act gives 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.

Specifically, section 51(1) of the Act provides that within six months after the commencement of this section (now the 31<sup>st</sup> December 2011) or within six months after coming into existence of the private body concerned, the head of a private body must compile a manual that must contain information regarding the subjects and categories of records held by such private bodies.

In this context, a “private body” is defined as any natural person who carries or has carried on any trade, business or profession, but only in such capacity or any partnership which carries or has carried on any trade, business or profession or any former or existing juristic person (e.g. any company, close corporation or business trust).

KBM Secretarial Services (Pty) Ltd falls within the definition of a “private body” and this Manual has been compiled in accordance with the said provisions and to fulfil the requirements of the Act.

In terms of the Act, where a request for information is made to a body, there is an obligation to provide the information, except where the Act expressly provides that the information may not be released. In this context, Section 9 of the Act recognises that access to information can be limited. The limitation relates to circumstances where such release would pose a threat to the protection of privacy, commercial confidentiality, and the exercising of efficient governance.

Accordingly, this manual provides a reference to the records held by KBM Secretarial Services (Pty) Ltd and the process that needs to be adopted to access such records.

All requests for access to information (other than information that is available to the public) must be addressed to the Head of the Business named in section 2 of this Manual.

## **Business and Contact details**

Name of Business: KBM Secretarial Services (Pty) Ltd  
Head of Business: Brett Marney  
Position: CEO / Director  
Postal Address: PO Box 21565, Valhalla, Pretoria, 0137  
Phone Number: 076 213 6279  
E-mail Address: [Brett@kbmsec.co.za](mailto:Brett@kbmsec.co.za)

## **2. Manual and Guidelines**

Any enquiries relating to this guide should be directed to the Chief Executive Officer of the South African Human Rights Commission, 2<sup>nd</sup> Floor, Braampark Forum3, 33 Hoofd Street, Braamfontein. Telephone: 011 877 3750 or Fax: 011 403 0668

Copies of the Guide are also available at the following places:

The office of the Government Communications and information Services;

- Library of Parliament, Cape Town;
- The South African Library, Cape Town;
- Natal Society Library, Pietermaritzburg;
- The State Library in Pretoria;
- City Library Services, Bloemfontein;
- The National Film, Video and Sound Archives, Pretoria;

Copies of the Guide are also available in all official languages at the following offices:

- All office of public bodies;
- All Magistrates' offices;
- All offices of the Department of Justice and Constitutional Development;
- All Post Offices;

The Guide is also available at all offices and on the website of the South African Human Rights Commission, [www.sahrc.org.za](http://www.sahrc.org.za)

## **Records available in terms of Section 52(2) of the Act**

Not Applicable

## **3. Records that are held at the offices of the business**

The following is a list of records that are held at the business's office:

### **Administration**

- Attendance registers (if applicable)
- Correspondence (if applicable)
- Founding Documents
- Licenses (categories) (if applicable)

- Minutes of Management Meetings (if applicable)
- Minutes of Staff Meetings (if applicable)

### **Human Resources**

- Conditions of Service
- Employee Records
- Employment contracts
- General Correspondence
- Pension and Provident Fund Records
- Performance Appraisals
- Personnel Guidelines, Policies and Procedures
- Remuneration Records and Policies
- Salary Surveys
- Training Records

### **Operations**

- Brochures on Company Information
- Client and Customer Registry
- Contracts
- General Correspondence
- Information relating to Employee Sales Performance
- Information relating to Work-in-progress
- Marketing and Future Strategies
- Marketing Records
- Production Records
- Sales Records
- Suppliers' Registry

### **Finances**

- Annual Financial Statements
- Asset Register
- Banking Records
- Budgets
- Contracts
- Financial Transactions
- General Correspondence
- Insurance Information
- Internal Audit Records
- Management Accounts
- Purchase and Order Information
- Stock Records
- Tax Records (company and employee)

## **Statutory Records**

At present these include records (if any) held in terms of:

- Companies Act 71 of 2008
- Financial Advisory and Intermediary Services Act 37 of 2002
- Financial Intelligence Centre Act 38 of 2001
- Financial Services Board Act 97 of 1990
- Income Tax Act 95 of 1967
- Labour Relations Act 66 of 1995
- Financial Services Ombud Schemes Act 37 of 2004
- Long Term Insurance Act 52 of 1998
- Pension Funds Act 24 of 1956
- National Credit Act 34 of 2005
- Tax on Retirement Funds Act 38 of 1996
- Unemployment Contributions Act 4 of 2002
- Value Added Tax Act 89 of 1991

## **4. Information Request Procedure**

- The requester must use the prescribed form to make the request for access to a record. A request form is available from our offices
- The request must be made to the Head of Business named in Section 2 above. This request must be made to the address, fax number or electronic mail address of the business. The requester should also indicate if any other manner should be used to inform the requester. If this is the case, please furnish the necessary particulars to be so informed.
- The requester must identify the right that is sought to be exercised or to be protected and must provide 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 submit proof of the capacity in which the requester is making the request to the satisfaction of Head of Business aforesaid.
- The prescribed request fee must be attached.

We will respond to your request within 30 days of receiving the request by indicating whether your request for access has been granted or denied.

Please note that the successful completion and submission of a request of access form does not automatically allow the requestor access to the requested record.

Access will be granted to a record only if the following criteria are fulfilled:

- The record is required for the exercise or protection of any right and
- The requestor complies with the procedural requirements set out in the Act relating to a request; and
- Access to the record is not refused in terms of any ground for refusal as contemplated in Chapter 4 of Part 3 of the Act

## **5. Denial of access**

Access to any record may be refused under certain limited circumstances. These include:

- The protection of personal information from unreasonable disclosure concerning any natural person;
- The protection of commercial information held concerning any third party (for example trade secrets);
- The protection of financial, commercial, scientific or technical information that may harm the commercial or financial interests of any third party;
- Disclosures that would result in a breach of a duty of confidence owed to a third party;
- Disclosures that would jeopardize the safety of life of an individual;
- Disclosures that would prejudice or impair the security of property or means of transport;
- Disclosures that would prejudice or impair the protection of a person in accordance with a witness protection scheme;
- Disclosures that would prejudice or impair the protection of the safety of the public;
- Disclosures that are privileged from production in legal proceedings unless the privilege has been waived;
- Disclosures of details of any computer program;
- Disclosures that will put KBM Secretarial Services (Pty) Ltd at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- Disclosures of any record containing any trade secrets, financial, commercial, scientific, or technical information that would harm the commercial or financial interests of KBM Secretarial Services (Pty) Ltd;
- Disclosures of any record containing information about research and development being carried out or about to be carried out by KBM Secretarial Services (Pty) Ltd.

If access to a record or any other relevant information is denied, our response will include:

- Adequate reasons for the refusal; and
- Notice that you may lodge an application with the court against the refusal and the procedure including details of the period for lodging the application.

## **6. Fees**

The applicable fees are prescribed in terms of the Regulations promulgated under the Act. There are two basic types of fees payable in terms of the Act:

### **Request Fee**

The non-refundable request fee of R 100 (excluding VAT) is payable on submission of any request for access to any record. This does not apply if the request is for personal records of the requestor. No fee is payable in such circumstances.

### **Access Fee**

The access fee is payable prior to being permitted access to the records in the required form. The applicable fees are prescribed in terms of Part III of Annexure A as identified in Government Notice Number 187, Regulation 11.

## **7. Manual Availability**

This Manual is available at the offices of the South African Human Rights Commission. Copies may also be obtained from the Head of Business of KBM Secretarial Services (Pty) Ltd in respect of hard copies, any transmission costs or postage will be for the account of the requester.

# 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:

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

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

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

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

Fax number: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

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

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## 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: \_\_\_\_\_

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## 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: \_\_\_\_\_

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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: \_\_\_\_\_

#### F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:	_____	Form in which record is required
Mark the appropriate box with an X.		
NOTES: (a) Compliance with your request in the specified form may depend on the form in which the record is available. (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form. (c) The fee payable for access for the record, if any, will be determined partly by the form in which access is requested.		
<b>1. If the record is in written or printed form:</b>		
<input type="checkbox"/>	copy of record*	<input type="checkbox"/> inspection of record
<b>2. If record consists of visual images</b> 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	
<b>3. If record consists of recorded words or information which can be reproduced in sound:</b>		
<input type="checkbox"/>	listen to the soundtrack audio cassette	<input type="checkbox"/> transcription of soundtrack* written or printed document
<b>4. If record is held on computer or in an electronic or machine-readable form:</b>		
<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? <b>Postage is payable.</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

#### G. Particulars of right to be exercised or protected

If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Indicate which right is to be exercised or protected: \_\_\_\_\_
2. Explain why the record requested is required for the \_\_\_\_\_  
exercise or protection of the aforementioned right:

**H. Notice of decision regarding request for access**

You will be notified in writing whether your request has been approved/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

