



## **ACCESS TO INFORMATION MANUAL (PRIVATE BODY)**

**PREPARED IN TERMS OF SECTION 51 OF  
THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000**

## 1. BACKGROUND

- 1.1 **Intention.** This manual is intended to assist persons wishing to access information in terms of the Act from MKA.
- 1.2 **Process.** Should a requester, as contemplated in the Act, require access to any information, he or she must contact the Head of MKA.

## 2. TERMS USED

In this Manual:-

- 2.1 terms defined in the Act shall have the meaning set out therein;
- 2.2 reference to sections shall be a reference to sections in the Act;
- 2.3 the following terms shall have the meaning assigned to them:
- 2.3.1 **"the Act"** means the Promotion of Access to Information Act No 2 of 2000, together with any regulations published in terms thereof;
- 2.3.2 **"Head"** means the information head of MKA;
- 2.3.3 **"Manual"** means this manual, together with all annexes thereto as amended and made available at the offices of MKA from time to time;
- 2.3.4 **"SAHRC"** means the South African Human Rights Commission.
- 2.3.5 **"MKA"** means McPherson Kruger Attorneys, a private body.

## 3. BACKGROUND TO MKA

McPherson Kruger Attorneys provides corporate and commercial legal advice to clients, especially those in the IT, FM, service and outsourcing sectors.

## 4. SECTION 51(1)(a) INFORMATION

<b>Name of Company</b>	McPherson Kruger Attorneys
<b>Physical Address</b>	Aldgate Building, Dunkeld Park, 6 North Road, Dunkeld West, Johannesburg, 2196
<b>Postal Address</b>	P.O. Box 1011, Saxonwold, Johannesburg, 2132
<b>Head</b>	John McPherson
Telephone	(011) 325-8010
Fax	(011) 325-8018
e-mail	john@mcpk.co.za

## 5. SECTION 51(1)(b) INFORMATION

- 5.1 **Guide.** In terms of section 10, the SAHRC is required to publish a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of the Act.
- 5.2 **Publication.** This guide, which the SAHRC was supposed to publish by no later than August 2003 and which, through the Regulation, the Minister of Justice granted the

Commission an extension until 31 August 2004, but which at the date of publication of this Manual was as yet unavailable, will contain the following information:-

- 5.2.1 the objects of the Act;
  - 5.2.2 particulars of the information officer of every public body;
  - 5.2.3 particulars of every private body as are practicable;
  - 5.2.4 the manner and form of a request for access to information held by a body;
  - 5.2.5 assistance available from both the information officer and the SAHRC in terms of this Act;
  - 5.2.6 all remedies in law regarding acts, omissions, rights and duties, including how to lodge an internal appeal and a court application;
  - 5.2.7 schedules of fees to be paid in relation to requests for access to information; and
  - 5.2.8 regulations made in terms of the Act.
- 5.3 **Queries.** Any queries with regard to the guide should be directed to:

**The South African Human Rights Commission, PAIA Unit, the Research and Documentation Department**

Postal Address	Private Bag 2700, Houghton, 2041
Phone	011 484-8300
E-mail	PAIA@sahrc.org.za

Website	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>
Fax	011 484-0582

**6. SECTION 51(1)(c) INFORMATION**

MKA has not published any notice in terms of section 52.

**7. SECTION 51(1)(d) INFORMATION**

- 7.1 MKA keeps records in accordance with all such legislation as is applicable to it, which includes but is not limited to, the legislation set out in annexe "A".
- 7.2 Where records are kept in terms of any of the above legislation and same is of a public nature, these may, in certain circumstances, be available without the requirement of a request in terms of the Act.

**8. SECTION 51(1)(e) INFORMATION**

This part of the Manual sets out a description of the subjects on which MKA holds records and the categories of records held on each subject. These include operational records of MKA, which it may utilise in the day to day running and administration of its business, including:

- client databases;
- accounting information;
- internal phone lists;
- policies;
- directives;
- minutes of meetings;
- administrative information.

## 8.1 Records that may be requested

Subject to the provisions of the Act and part 8.2, MKA retains the following records:

### 8.1.1 Operational Information

Such information as relates to the operational, commercial and financial interests of MKA, including (without limitation):

- accounting records;
- commercial contracts;
- company secretarial information;
- customer database (consisting of customer personal information; commercial and financial information; information on contemplated, existing and past legal matters; information relating to agreements, proposals and intellectual and other property rights of customers);
- domain name registrations;
- employment contracts;
- human resource information (including internal policies and procedures; company employee records; and personal information relating to past, present and prospective employees and directors);
- information relating to MKA's marketing, business plans, systems and procedures;
- insurance policies;
- internal phone lists;
- internal policies and procedures;
- records relating to information technology (hardware, software and data collection and storage).

### 8.1.2 Communications

Internal and external correspondence between MKA, its staff and customers, including letters, faxes, memos, emails and the like, to the extent that same are not covered by the records described in 8.1.1.

### 8.1.3 Website

MKA's website address is [www.mcphersonkruger.co.za](http://www.mcphersonkruger.co.za) and is accessible via the Internet. The website contains various categories of information relating to MKA, including a description of the services provided, a background to the company, and its staff, amongst others.

## 8.2 The Request Procedures

It should be noted that any and all records, whether specifically listed herein or not, shall only be made available subject to the provisions of the Act.

### 8.2.1 Form of request

- A requester must use the form set out in Annexe "B" to make a request for access to a record. This form must be submitted to the Head. This request may be made to any of the contact details set out in 4.
- The requester must provide sufficient detail on the request form to enable the Head to identify the record and the requester. The requester should also indicate which form of access is required and specify a postal address or fax number in the Republic of South Africa. The requester should also indicate if, in addition to a

written reply, any other manner is to be used to inform the requester and state the necessary particulars to be so informed.

- The requester must identify the right that is sought to be exercised or protected and 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 the Head.

#### 8.2.2 Fees

A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:

- the Head will by written notice require each requester (other than a personal requester) to pay the prescribed request fee (if any) before further processing any request;
- the fee that the requester must pay to a private body is R50, provided that the requester may lodge an application to the court against the tender or payment of the request fee;
- after the Head has made a decision on the request, the requester will be notified in the required form. If the request is granted then a further access fee must be paid for reproduction and for search and preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure. The current fees are set out in Annexe "C".

### 9. **SECTION 51(1)(f) INFORMATION**

The Minister of Justice and Constitutional Development has to date not made any regulations in this regard.

### 10. **AVAILABILITY OF MANUAL**

10.1 This Manual is available for inspection by the general public upon request, during office hours and free of charge, at the offices of MKA. Copies of the Manual may be made, subject to the prescribed fees.

10.2 Copies may also be requested from the South African Human Rights Commission.

10.3 The Manual is also posted on MKA's website referred to in 8.1.3.

## Annexe A – Legislation

Arbitration Act	Act 42 of 1965
Attorneys Act	Act 53 of 1979
Basic Conditions of Employment Act	Act 75 of 1997
Closed Corporation Act	Act 69 of 1984
Companies Act	Act 61 of 1973
Compensation for Occupational Injuries and Diseases Act	Act 130 of 1993
Competition Act	Act 89 of 1998
Copyright Act	Act 61 of 1978
Electronic Communications and Transactions Act	Act 25 of 2002
Employment Equity Act	Act 55 of 1998
Financial Intelligence Centre Act	Act 38 of 2001
Income Tax Act	Act 58 of 1962
Insolvency Act	Act 24 of 1936
Insurance Act	Act 27 of 1943
Interception and Monitoring Prohibition Act	Act 127 of 1992
Intellectual Property Laws Amendments Act	38 of 1997
Labour Relations Act	Act 66 of 1995
Long Term Insurance Act	Act 52 of 1998
Occupational Health and Safety Act	85 of 1993
Prevention of Organised Crime Act	Act 121 of 1998
Protection of Businesses Act	Act 99 of 1978
Regional Services Councils Act	Act 109 of 1985
Short Term Insurance Act	Act 53 of 1998
Skills Development Act	Act 97 of 1998
Skills Development Levies Act	Act 9 of 1999
Stamp Duties Act	Act 77 of 1968
Trade Marks Act	Act 194 of 1993
Trust Property Control Act	Act 57 of 1988
Unemployment Insurance Act	Act 63 of 2001
Unemployment Insurance Contributions Act	Act 4 of 2002
Value Added Tax Act	Act 89 of 1991

## Annexe B – Request Form

### A. Particulars of private body

The Head: McPherson Kruger Attorneys

P.O. Box 1011, Saxonwold, Johannesburg, 2132

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

- (a) *The particulars of the person who requests access to the record 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 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.***

Description of record or relevant part of the record	
Reference number, if available	
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 therefor.

<b>Reason for exemption from payment of fees</b>	
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**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.

<b>Disability</b>	
<b>Form in which record is required</b>	

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.

<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? A postal fee is payable.	YES	NO
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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.*

<b>Indicate which right is to be exercised or protected</b>	
<b>Explain why the requested record is required for the exercising or protection of the aforementioned right</b>	

**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.*

<b>How would you prefer to be informed of the decision regarding your request for access to the record?</b>	
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Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20

SIGNATURE OF REQUESTER / PERSON ON  
 WHOSE BEHALF REQUEST IS MADE

## Annexe C – Fees

	Item	Basis	Fee
1	Copy of the manual as contemplated in regulation 9(2)(c)		
		Per photocopy of an A4-size page or part thereof.	R1,10
2	Reproduction referred to in regulation 11(1)		
	(a)	Per photocopy of an A4-size page or part thereof.	R1,10
	(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form	R0,75
	(c)	For a copy in a computer-readable form on -	
		(i) stifty disc	R7,50
		(ii) compact disc	R70,00
	(d)	(i) For a transcription of visual images, for an A4-size page or part thereof	R40,00
		(ii) For a copy of visual images	R60,00
	(e)	(i) For a transcription of an audio record, for an A4-size page or part thereof	R20,00
		(ii) For a copy of an audio record	R30,00
3.	Request fee payable by a requester, other than a personal requester, referred to in regulation 11(2).		R50,00
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	R1,10
	(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form	R0,75
	(c)	For a copy in a computer-readable form on -	
		(i) stifty disc	R7,50
		(ii) compact disc	R70,00
	(d)	(i) For a transcription of visual images, for an A4-size page or part thereof	R40,00
		(ii) For a copy of visual images	R60,00
	(e)	(i) For a transcription of an audio record, for an A4-size page or part thereof	R20,00
		(ii) For a copy of an audio record	R30,00
	(f)	To search for and prepare the record for disclosure, for each hour or part of an hour reasonably required for such search and preparation	R30,00
	(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.	
5.	The actual postage is payable when a copy of a record must be posted to a requester.		