

PROMOTION OF ACCESS
TO INFORMATION ACT

AUGUST 2002

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A. GENERAL INFORMATION

1. **Name of the head of the organisation: Howard Plaatjes**

2. **Name of organisation: Independent Online (Pty) Ltd**

3. **Postal Address: P O Box 4116, Cape Town, 8000**

4. **Physical Address: 122 St Georges Mall, 6th Floor Newspaper House, Cape Town 8000**

5. **Telephone Number (including area code): 021 481 6200**

6. **Fax Number (including area code): 021 481 6294**

7. **E-mail Address (if available):**

8. **Give a description of your organisation and its functions: 15 Newspaper Titles on the World Wide Web**

9. **How can one obtain the Information Manual of your organisation: Obtainable from the Information Officer**

NOTES: *Even though the Act does not require private bodies to have information officers as public bodies, it leaves this responsibility with the head of your organisation. Therefore for convenience sake it's best that organisations specify who will deal with information requests.*

1. **Name of the person designated to deal with information requests:**
Karen van Eck

2. **Name of organisation: Independent Online (Pty) Ltd**

3. **Postal Address: P O Box 4116, Cape Town, 8000**

4. **Physical Address: 122 St Georges Mall, 6th Floor Newspaper House, Cape Town, 8000**

5. **Telephone Number (including area code): 021 481 6200**

6. **Fax Number (including area code): 021 481 6294**

7. **E-mail Address (if available): karenve@iol.co.za**

B. OBJECTS OF THE PROMOTION OF ACCESS TO INFORMATION ACT**Objects of PAIA (Section 9)**

- a) To give effect to the constitutional rights of access to –
 - i) any information held by the State; and
 - ii) any information that is held by another person and that is required for the exercise or protection of any rights,
- b) to give effect to that right –
 - i) subject to justifiable limitations, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance; and
 - ii) in a manner which balances that right with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution.
- c) to give effect to the constitutional obligations of the State of promoting a human rights culture and social justice, by including public bodies in the definition of “requester”, allowing them amongst others, to access information from private bodies upon compliance with the four requirements of this Act, including an additional obligation for certain public bodies in certain instances to act in the public interest;
- d) to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible; and
- e) Generally, to promote transparency, accountability and effective governance of all public and private bodies by, including, but not limited to, empowering and educating everyone-
 - i) to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;
 - ii) to understand the functions and operation of public bodies; and
 - iii) to effectively scrutinise, and participate in, decision-making by public bodies that affects their rights.

C. ASSISTANCE FROM AND OBLIGATIONS OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The South African Human Rights Commission has at the date of printing hereof 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 . Any enquiries regarding this guide should be directed to :

The South African Human Rights Commission at PAIA Unit (The Research and Documentation Department)

Private Bag X2700 Houghton , 2041

Telephone Number : (011) 4848300

Facsimile Number : (011) 4841360

Website : www.sahrc.org.za

E-mail Address : PAIA@sahrc.org.za

Additional functions of Human Rights Commission [Section 83]

1. The Human Rights Commission must-
 - a) compile and make available a guide on how to use this Act as contemplated in section 10; and
 - b) submit reports to the National Assembly as contemplated in section 84.

2. The Human Rights Commission must, to the extent that financial and other resources are available –
 - a) develop and conduct educational programmes to advance the understanding of the public, in particular of disadvantaged communities, of this Act and of how to exercise the rights contemplated in this Act;
 - b) encourage public and private bodies to participate in the development and conduct of programmes referred to in paragraph a) and to undertake such programmes themselves; and
 - c) promote timely and effective dissemination of accurate information by public bodies about their activities.

3. The Human Rights Commission may –
 - a) make recommendations for –
 - i) the development, improvement, modernisation, reform or amendment of this Act or other legislation or common law having

- a bearing on access to information held by public and private bodies, respectively; and
- ii) procedures in terms of which public and private bodies make information electronically available.

-
- b) monitor the implementation of this Act;
 - c) if reasonably possible, on request, assist any person wishing to exercise a right contemplated in this Act;
 - d) recommend to a public or private body that the body make such changes in the manner in which it administers this Act as the Commission considers advisable;
 - e) train information officers of public bodies;
 - f) consult with and receive reports from public and private bodies on the problems encountered in complying with this Act;
 - g) obtain advice from, consult with, or receive and consider proposals or recommendations from any public or private body, official of such a body or member of the public in connection with the Commission's functions in terms of this Act;
 - h) for the purposes of section 84(b)(x), request the Public Protector to submit to the Commission information with respect to-
 - i) the number of the complaints lodged with the Public Protector in respect of a right conferred or duty imposed by this Act;
 - ii) the nature and outcome of those complaints; and
 - i) generally, inquire into any matter, including any legislation, the common law and any practice and procedure, connected with the objects of this Act.
4. For the purpose of the annual report referred to in section 84 and if so requested by the Human Rights Commission, the head of a private body may furnish to that Commission information about requests for access to records of the body.
5. If appropriate, and if financial and other resources are available, an official of a public body must afford the Human Rights Commission reasonable assistance for the effective performance of its functions in terms of this Act.

D. ALL REMEDIES IN LAW

All remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act, including the manner of lodging –

- i) an internal appeal (Section 75); and
- ii) an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision of the head of a private body (Section 78)

NOTES: *According to the Act if one is refused access to information, they have a right to make an internal appeal (for more information on this refer to Section 75 which outlines a manner of making an internal appeal and all the fees required). Should an internal appeal fail one can take the matter to court (for more information see Section 78). Therefore this information must be made available in the Information Manual in a clear and simple language.*

E. AUTOMATICALLY AVAILABLE INFORMATION

This is information that is automatically available to the members of the public. In other words this is information that you would normally give to people, without them having requested it. For an example organisational brochures, promotional material, newsletters, annual reports etc.

F. INFORMATION THAT IS NOT AUTOMATICALLY AVAILABLE

This is information that an organisation has but is not automatically available to the members of the public and for them to get access to such information they would have to fill forms to request it and the information has to be necessary for them to protect their rights. For an example: minutes, staff salaries or environmental impact studies, etc.

The Act does not give any indication about how you would go about compiling information that is not automatically available. However it does say one has to do it in such a way that it will facilitate easy access to information.

The manual compiled by private bodies must be updated on a regular basis. Unlike public bodies, which have specified timeframes to update their information manuals, private bodies do not have timeframes.

PROMOTION OF ACCESS TO INFORMATION ACT

Form of request

A request for access to a record, as contemplated in section 53(1) of the Act, must be made in the form of Form B of the Annexure.

1. **Fees for records of private body**

The fee for reproduction referred to in section 52(3) of the Act, is 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 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 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

2. **The request fee payable by a requester, other than a personal requester, referred to in section 54(1) of the Act is R50.00.**

3. **The access fees payable by a requester referred to in section 54(7) of the Act, unless exempted under section 54(8) of the Act, 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 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 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

f)

To search the record for disclosure, R30.00 for each hour or

part of an hour reasonably required for such search.

4. **The actual postal fee is payable when a copy of a record must be posted to a requester.**

5. **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

Notice of internal appeal

6. Notice of internal appeal, as contemplated in section 75(1) of the Act, must be lodged in the form of Form C of the Annexure.

Appeal fees

7. The appeal fee payable in respect of the lodging of an internal appeal by a requester against the refusal of his or her request for access, as contemplated in section 75(3)(a) of the Act, is R50.00.

Value-added tax

8. Public and private bodies registered under the Value-Added Tax Act, 1991 (Act No. 89 of 1991), as vendors may add value added tax to all fees prescribed in terms of these regulations.

FORM B

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 4]

A. Particulars of private body

The Head:

B. Particulars of person requesting access to the record

- a) The particulars of the person who requests access to the record must be reported 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 other 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.***

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 therefor.*

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) 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.*

2. Explain why the requested record is required for the exercising 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 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? _____

Signed at _____ this _____ day of _____ 20 _____

**SIGNATURE OF REQUESTER/PERSON ON
WHOSE BEHALF THE REQUEST IS MADE**

FORM C**NOTICE OF INTERNAL APPEAL**

(Section 75 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 6]

**STATE YOUR REFERENCE
NUMBER:** _____

NOTE: A person who lodges an internal appeal may have to pay an appeal fee. If an appeal fee is payable, the decision of the internal appeal may be deferred until the fee is paid.

A. Particulars of public body

The Information Officer / Deputy Information Officer:

B. Particulars of requester / third party who lodges the internal appeal

- a) *The particulars of the person who is lodging the internal appeal, must be completed below.*
- b) *Proof of the capacity in which appeal is lodged, if applicable, must be attached.*
- c) *If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be stated at C below.*

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 other person:

C. Particulars of requester

This section must be completed ONLY if a third person (other than the requester) is lodging the internal appeal.

Full names and surname: _____

Identity number _____

D. The decision against which the internal appeal is lodged

Mark the decision against which the internal appeal is lodged with an "X" in the appropriate box:

	Refusal of request for access.
	Decision regarding fees determined in terms of section 22 of the Act

	Decision regarding the extension of the period within which request must be dealt with in terms of section 26(1) of the Act.
	Decision in terms of section 29(3) of the Act to refuse access in the form as requested by the requester
	Decision to grant request for access.

E.

Grounds for appeal

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

State the grounds upon which the internal appeal is based: _____

State any other information that may be relevant in considering the appeal: _____

F.

Notice of decision on appeal

You will be notified in writing of the decision on your internal appeal. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance to your request.

State the manner: _____

Particulars of manner: _____

Signed at _____ this _____ day of _____ 20 _____

SIGNATURE OF APPELLANT

FOR DEPARTMENTAL USE:

OFFICIAL RECORD OF INTERNAL APPEAL

Appeal received on _____ (date) by _____

_____ (state rank,

name and surname of information officer / deputy information officer).

Appeal accompanied by the reasons for the information officer / deputy information

Officer's decision and, where applicable, the particulars of any third party to whom or which the records, submitted by information officer / deputy information officer on _____ (date) to the relevant authority.

OUTCOME OF APPEAL:

DECISION OF INFORMATION OFFICER / DEPUTY INFORMATION OFFICER

CONFIRMED / SUBSTITUTED BY NEW DECISION

NEW DECISION : _____

DATE

RELEVANT AUTHORITY

DATE RECEIVED BY THE INFORMATION OFFICER / DEPUTY INFORMATION

OFFICER FROM THE RELEVANT AUTHORITY: _____

PRACTICAL APPLICATION OF SECTION 51 (d) (e) – Appendix 2

INFORMATION THAT IS NOT AUTOMATICALLY AVAILABLE

CATEGORY	RECORD SUBJECT	FORM & LANGUAGE OF A RECORD	HOW TO OBTAIN THIS RECORD	REQUEST FEE
Creditor Contracts		English	Information Officer	
Debtor Terms		English	Information Officer	
Financial Information	I/S, B/S, Cash, Macc	English	Information Officer	
Human Resources	Contracts, Salaries, all aspects of personnel	English	Information Officer	
Software & Programs		English	Information Officer	
Technical Documentation		English	Information Officer	
Technical Contracts with Providers		English	Information Officer	

