
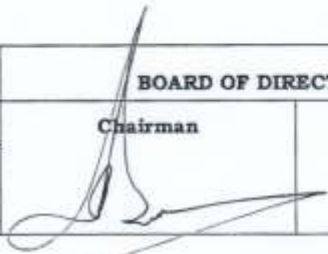


# POLICY & PROCEDURE:

## PROMOTION OF ACCESS TO INFORMATION: ACT 2 OF 2000

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MANAGEMENT		BOARD OF DIRECTORS	
Chairman	Date	Chairman	Date
	18/11/2002		18/11/02

# I

## **OBJECTIVE**

To make available any record on request which is needed for the exercise and/or protection of constitutional rights through a transparent process in accordance with the “Promotion of Access to Information Act, 2 of 2000.”

## **II POLICY DECLARATION**

Access will be approved on request to records in possession of the company should:

- The record be required for the exercise or protection of any right
- The requester/applicant adheres to all the prescribed procedures as required by the Act and this Policy.
- Access to said record not be denied in terms of Chapter 4 of the Act.

## **III CATEGORIES OF RECORDS**

1. Records available without formal request (Chapter 2 – 51 [c] )
  - Timetables / stops
  - Fare tables
  - Address of office (s)
  - Telephone numbers / fax numbers of office (s)
2. Records available in accordance with other act (Chapter 2 – 5 [d] )
  - Companies Act 61 of 1973
  - Labour Relations Act 66 of 1995
  - Basic Conditions of Employment Act 75 of 1997
  - Employment Equity Act 55 of 1998
  - Compensation for Occupational Diseases and Injuries, Act 130 of 1993
3. Records available on formal request Chapter 2 – 51 (1 [e] )
  - Financial
  - Personnel
  - Legal

The company will in accordance with the Act, (Chapter 2 – 52 [1] ) make available on request from the Minister of Justice, a list of all the categories of records available in the company.

#### IV PROCEDURE AND METHOD

1. All requests for access to a record (s) [not a record mentioned under III – Categories of Records, par. 1] must be submitted on the prescribed form – Annexure A, addressed to the Information Officer to the address supplied in the manual as published in the Government Gazette or to the fax number or electronic e-mail address.

1.1 The Manpower Manager will function as Information Officer as delegated by the Executive Chairman (see published manual)

2. Formal requests will only be processed after (if applicable) the prescribed fee has been paid [R50,00 as per Regulation - ]. The prescribed fee must accompany the request.

*Note:* Fees are not applicable when an individual requests a record regarding himself/herself.

2.1 Should it be clear to the Information Officer that in order to look for/find the requested record it will be necessary to utilize more than one person and/or that it will take longer than 6 (six) hours to find the record, he can inform the requester about this and ask that a deposit be paid in accordance with the Act, Regulation R187, Chapter 3, Part III par. 4 (2). This will be done as per Annexure B.

3. Records that cannot be found or do not exist.

3.1 The Information Officer will do everything in his power to find a requested record. Should such a record not be found or if it does not exist, then the requester will be informed in writing to this effect.

3.1.1 Such a letter will set out all the steps that were taken in an effort to find the record or to establish its existence. It will include a list of all employees enlisted to look for the record and if applicable, letters to employees concerning the search for said record.

3.1.2 The requester will be informed that due to the fact that no such record can be found or exists, the company cannot adhere to his request for access. Should the record be found at a later stage, the requester will be informed and access granted unless access must/may be denied according to Chapter 4 of the Act.

3.2 Should access be denied, the requester will be informed of the reason(s) why and that he/she has the right to submit an application to the court, objecting to the reason(s) as well as against the procedure that had to be followed.

- 3.3 A request for access to a record will according to the Act, be processed within a 30 day period after receiving the request. An answer to the requester indicating if his/her request was approved or denied will be given within 30 days from receipt of the request.
- 3.3.1 Should the request be approved, the requester will be informed of such decision stating the access fee to be paid, and the form in which it will be made available. The requester may apply to the Court for exemption of the access fee or against the form in which the record is made available if not in the requested form.
- 3.4 The Information Officer may ask for extension of the 30 day time frame allowed to process a request. Such a request/extension may be made only once and cannot exceed a further 30 days.
- 3.4.1 This will only be applicable in cases as described in the Act, Chapter 2 (57). Such cases refer to a request involving a large volume of records or records not kept on the immediate premises or involve correspondence between different divisions/departments of the company.
- 3.4.2 The requester must be informed of this delay within 30 days of receipt of the request. Reasons for the delay/request and the extended time needed must be communicated. The requester may object to the delay to the court.
- 3.5 Should a request for a record be received, but access must or may be denied on grounds of Chapter 4 of the Act due to the fact that some of the information on the record falls under this category whilst some information must/may be disclosed, then;
- Such information that can be separate from the other information, must/may be disclosed.
- 3.5.1 In such cases access can be approved to a portion of the information on a record.
4. The form of access if approved should be in the requested form if possible or if not possible, in a form determined by the Information Officer.
5. In a request for access to a record dealing with the physical or mental state of an individual, and such record was compiled by a medical practitioner on behalf of the company, and if the requester should be the said individual or someone requesting on his behalf, then;
- 5.1 If the Information Officer is of the opinion that disclosure of said record to the requester will be detrimental to the physical and mental state of the

requester, he can consult with a medical practitioner before access to such record is approved.

5.2 Should an individual younger than 16 years of age need access to a record, such request must be submitted by an adult relative responsible for him/her.

5.2.1 Should an individual who is not capable to manage his/her own affairs need access to a record, the person appointed by the court to administer his/her affairs must submit such a request.

## V GROUNDS TO APPROVE OR DENY ACCESS TO RECORDS (CHAPTER 4)

### A. Compulsory Protection of the Privacy of a Third Party (Individual)

1. The Information Officer ***must deny*** a request for access to a record containing personal information about a third party/person, including a deceased person.

2. The Information Officer ***may not deny*** access to a record if it contains information about an individual who has granted written consent that said information may be disclosed, either requesting it himself or being requested on his/her behalf.

2.1 The Information Officer ***may not deny*** access to a record if it is already freely available.

2.2 The Information Officer ***may not deny*** access to a record if it was given by an individual to the company with written consent that it may be disclosed to the general public.

2.3 The Information Officer ***may not deny*** access to a record if it deals with the physical and mental health/well-being of an individual under the care of the requester who is;

- Under the age of 18 years
- Not capable to understand the nature of the request and in whose best interest it would be to gain access to the record.

*Note:* Par. 2.3 should be read with Chapter 3 (61). Should a medical practitioner deem that such disclosure could be detrimental to the physical and mental state of the individual, the Information Officer may deny access.

2.4 The Information Officer ***may not deny*** access to a record if the request concerns a deceased person and the requester is the direct family of the deceased or has written consent from the direct family of the deceased.

2.5 The Information Officer ***may not deny*** access to a record if the request concerns an individual who is, or was a member of the company and deals with the position he/she occupies/occupied in the company, his/her title, work address and salary.

## **B. Compulsory Protection of Commercial Information of a Third Party**

1. The Information Officer ***must deny*** access to a record(s) of the company/third party that contains:

- Trade secrets
- Financial, commercial, scientific or technical information which if disclosed, would be detrimental to the company/third party.
- Contains information that was given to the company by a third party confidentially and the disclosure thereof could:
  - endanger contractual obligations and other negotiations *or*
  - impair commercial competition.

2. The Information Officer ***may not deny*** access to a record consisting of:

- Information given to the company with written consent to disclose said information
- A record that deals with the final results of any test or investigation concerning a product or the environment that holds/poses a serious threat to the general public or environment.

## **C. Compulsory Protection of Certain Confidential Information**

1. The Information Officer ***must deny*** access to a record should the disclosure thereof be in breach of a confidentiality clause/agreement with a third party which could lead to legal action.

**D. Compulsory Protection of the Security of Individuals and the Protection of Property**

1. The Information Officer ***may deny*** access to a record if there is reason to believe that disclosure could endanger the life/lives of a person(s)
2. The Information Officer ***may deny*** access to a record if disclosure could be detrimental to the security of a building structure or system including a computer/commercial system, method of transport, method and procedures to protect a person or the general public.

**E. Compulsory Protection of Privileged Records Dealing with Court/Criminal Proceedings/Investigations**

1. The Information Officer ***must deny*** access to such records unless the individual concerned gives written consent for the disclosure thereof.

**F. Records Regarding Commercial Activities of the Company**

1. The Information Officer ***may deny*** access to such records should the record:
  - Contain trade secrets
  - Contain financial, commercial, scientific or technical information which disclosure could be to the detriment of the company.
  - Contain information that could be detrimental to contractual obligations/negotiations or its competitiveness.
  - Deals with a computer program which deals with copyright (Act 98 of 1978)

**G. Compulsory Protection of Research Information of a Third Party and the Company**

1. The Information Officer ***must deny*** access to a record if it contains information concerning completed research or intended research done by the company or a third party, and which disclosure will be seriously detrimental

to the third party, company or an individual or detrimental to the subject of research.

#### **H. Compulsory Disclosure in the Interest of the General Public**

1. The Information Officer *may grant* access to a record should the record contain evidence of:
  - A criminal offence *or*
  - a pending disaster posing a serious threat to the general public or environment *and*
  - the interest of the general public should receive precedence above any possible damage to the company

### **VI THIRD PARTY NOTIFICATION AND RIGHTS**

1. The Information Officer receiving a request for a record involving a third party should do everything possible to notify the third party of said request. This should be done:
  - within 21 days after receiving the request
  - via the quickest possible means
  - details about the requested record must be given, the name of the requester, and an indication about the company view on approving or not approving the request.
  - Request the third party to respond within 21 days, verbally or per letter
  - Third party to supply written consent if agreeing to disclosure
2. A third party *may* request the Information Officer not to grant access *but must* motivate these reasons.
  - 2.1 The Information Officer *may* after due consideration of a third party's request/motivation asking not to disclose/approve access to a record, still



decide to approve access. This ***must be*** done within 30 days after receipt of the third party's response.

2.1.1 In such cases the third party ***must be*** informed of the decision and the reason(s) why.

2.1.2 The third party ***must be*** informed that they may apply to the court to petition the decision within 30 days.

## **VII INTERNAL APPEAL PROCEDURE**

1. A requester may appeal against a decision by the Information Officer not to grant access to the head of the company.

A third party may also appeal against a decision by the Information Officer to disclose a record to the head of the company.

1.1 These appeals ***must be*** done on the prescribed form – Annexure C within 60 days in the case of a requester and 30 days in the case of a third party.

1.2 The prescribed fee ***must*** accompany all appeals before an appeal will be heard.

1.3 The Information Officer ***must*** within 10 working days after receipt of an appeal respond by giving the response/decision from the head of the company and his/her reasons.

1.3.1 If the initial request involved a third party, the decision of the head of the company ***must*** be communicated to said third party.

1.3.2 The appellant ***must be*** informed that he/she may appeal against the decision to a court within 60 days in the case of a requester and 30 days in the case of a third party.

## **VIII EXTERNAL APPEAL APROCEDURE (COURTS)**

1. External appeals against a decision by the Information Officer may only be brought after the requester or third party has exhausted the internal appeal procedure. This procedure should be completed within 30 days after the internal appeal decision was announced.

2. Should an external appeal be lodged with the courts, the court will have access to any record for investigative purposes and may not be withheld.

## **IX RECORD OF REQUESTS**

1. The Information Officer will keep a central record of all requests coming into the company on the prescribed form in accordance with the act relating to formal requests for access to records.

- 1.1 No person will be liable for persecution under this act, whilst performing the duties described as long as he/she has acted in good faith.

- 1.1.1 Any person that willfully destroys, alters, hides or falsifies any record will be guilty of misconduct and could receive a fine or sentence of up to 2 years.

ANNEXURE B

TO : .....  
FROM : INFORMATION OFFICER – BUSCOR  
DATE : .....

**PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000:  
REQUEST FOR A DEPOSIT ACCORDING TO REGULATION NO. R187, CHAPTER 3, PART III**

Your request for access to a record together with the prescribed fee was received on .....

The record you require is not readily available, if at all. In order for us to look for the record, more than six (6) hours will be needed.

We therefore request that you pay a deposit of one third of the fee as prescribed by the Act, Regulation R187, Chapter 3, Part III par. 4 (2).

The deposit amounts to R .....

You are entitled according to the act to apply for exemption from payment of this deposit from the court.

Should we not be able to find the requested record, or if the record is found and after careful study thereof it is decided not to grant your request, your deposit will be refunded.

Please respond as soon as possible in order for us to commence the search. Should we not hear from you within 21 days, it will be taken that you no longer require the record. You will then forfeit the request fee that you have already paid.

Thanking you for your attention to this matter,

.....  
**MANPOWER MANAGER / INFORMATION OFFICER**