

MANUAL PREPARED IN ACCORDANCE WITH  
SECTION 51 OF THE PROMOTION OF ACCESS TO  
INFORMATION ACT NO. 2 OF 2000 IN RESPECT OF  
**DAVID H BOTHA, DU PLESSIS & KRUGER  
INCORPORATED**



BDK ATTORNEYS



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## 1 INTRODUCTION

- 1.1 This Manual has been prepared in accordance with section 51 of the Promotion of Access to Information Act No.2 of 2000 ("**PAIA**").
- 1.2 The aim of the Manual is to assist potential Requesters to request access to information (documents, records and/or Personal Information) from BDK as contemplated under PAIA.
- 1.3 The Manual may be amended from time to time and as soon as any amendments have been affected, the latest version of the Manual will be published and distributed in accordance with PAIA.
- 1.4 A Requester is invited to contact the Deputy Information Officers should he or she require any assistance in respect of the use or content of this Manual.
- 1.5 The definitions provided in this Manual are solely for the purpose of this Manual and are not to be taken as applicable to PAIA.

## 2 DEFINITIONS

The following words or expressions will bear the following meanings in this Manual –

- 2.1 "**BDK**" means David H Botha, Du Plessis & Kruger Incorporated (BDK Attorneys) (registration number 1998/16549/21), a professional company which renders legal services including legal advice and legal representation to individual clients, businesses and organisations.
- 2.2 "**Client**" means a natural or juristic person who or which receives services and/or products from BDK;
- 2.3 "**Correspondence**" means any written and/or electronic communication exchanged between two or more parties;
- 2.4 "**Data Subject**" means the natural or juristic person to whom Personal Information relates
- 2.5 "**Deputy Information Officer**" means any or all of BDK's designated deputy information officers described in paragraph 6 of this Manual;



- 2.6 "**Employee**" means any person who works for, or provides services to, or on behalf of BDK, and receives or is entitled to receive remuneration;
- 2.7 "**Information Officer**" means BDK's designated information officer described in paragraph 6 of this Manual;
- 2.8 "**Manual**" means this manual, together with all annexures thereto as amended and made available on the website of BDK and at the offices of BDK from time to time;
- 2.9 "**PAIA**" means the Promotion of Access to Information Act No. 2 of 2000, together with any regulations published thereunder;
- 2.10 "**POPIA**" means the Protection of Personal Information Act No. 4 of 2013, together with any regulations published thereunder;
- 2.11 "**Personal Information**" has the meaning ascribed thereto under POPIA
- 2.12 "**Processing**" means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –
- 2.12.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- 2.12.2 dissemination by means of transmission, distribution or making available in any other form by electronic communications or other means; or
- 2.12.3 merging, linking, blocking, degradation, erasure or destruction. For the purposes of this definition, "**Process**" has a corresponding meaning;
- 2.13 "**Requester**" means any person or entity (including any Data Subject) requesting access to a record that is under the control of BDK; and
- 2.14 "**Third-Party**" means any independent contractor, agent, consultant, sub-contractor or other representative of BDK.



### 3 SCOPE OF THE MANUAL

This Manual has been prepared in respect of, and applies to, BDK.

### 4 HOW TO USE PAIA TO ACCESS INFORMATION

*(Information provided in terms of section 51(1) of PAIA)*

- 4.1 PAIA grants a Requester access to records of a private body if the record is required for the exercise or protection of any rights. If a public body lodges a request in terms of PAIA, the public body must be acting in the public interest.
- 4.2 Requests in terms of PAIA shall be made in accordance with the prescribed procedures, and at the prescribed fees.
- 4.3 A guide on how to use PAIA is required to be compiled by the Information Regulator and when same is available, will be accessible (in various official languages) on the Information Regulator's website and on our website or you may request a copy of the guide from us by contacting our Information Officer. All queries should be directed to:

The Information Regulator of South Africa

**Physical Address:** JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001

**Postal Address:** P.O Box 31533, Braamfontein, Johannesburg, 2017

**E-mail:** [infoereg@justice.gov.za](mailto:infoereg@justice.gov.za) / [complaints.IR@justice.gov.za](mailto:complaints.IR@justice.gov.za)

**Website:** <https://www.justice.gov.za/infoereg/index.html>

**Tel:** 012 406 4818

**Fax:** 086 500 3351

### 5 OVERVIEW OF THE STRUCTURE AND FUNCTIONS OF BDK

- 5.1 BDK is incorporated and registered in the Republic of South Africa under registration number 1998/16549/21
- 5.2 BDK Attorneys are one of the leading law firms in Gauteng. The highly experience team are able to provide legal services across a wide range of subject matters, which include criminal law, commercial and general civil litigation.
- 5.3 Our clients include local, national and international individuals and companies across a broad range of sectors, as well as public sector organisations.



## 6 BDK'S CONTACT DETAILS

*(Information required under section 51(1)(a) of PAIA)*

<b>Name of Body:</b>	David H Botha, Du Plessis & Kruger Incorporated
<b>Physical &amp; Postal Addresses:</b>	<b>Physical:</b> Ground Floor, Oxford Terrace, 3 on 9 <sup>th</sup> Avenue, Houghton Estate. <b>Postal:</b> P O Box 8013, Johannesburg, 2000
<b>Head of Body</b>	<b>Name:</b> Mr Piet du Pless <b>E:</b> <a href="mailto:thefirm@bdk.co.za">thefirm@bdk.co.za</a> <b>T:</b> +27 (0)11 562 1167 <b>F:</b> +27 (0)11 562 1567
<b>Information Officer</b>	<b>Name:</b> Mrs Amorette Gangel <b>E:</b> <a href="mailto:amorette@bdk.co.za">amorette@bdk.co.za</a>



## 7 BDK's PROCESSING OF PERSONAL INFORMATION IN TERMS OF POPIA

*(Information required under section 51(1)(c) of PAIA)*

### 7.1 Purpose of BDK's Processing of Personal Information

- 7.1.1 BDK will only Process a Data Subject's Personal Information for a specific, lawful and clear purpose (or for specific, lawful and clear purposes) and will ensure that it makes the Data Subject aware of such purpose(s) as far as possible.
- 7.1.2 It will ensure that there is a legal basis for the Processing of any Personal Information. Further, BDK will ensure that Processing will relate only to the purpose for and of which the Data Subject has been made aware (and where relevant, consented to) and will not Process any Personal Information for any other purpose(s).
- 7.1.3 BDK will process Personal Information only in ways that are for, or compatible with, the business purposes for which the data was collected or that are subsequently authorised by the relevant Data Subject.
- 7.1.4 BDK will retain Personal Information only for as long as is necessary to accomplish BDK's legitimate business purposes or for as long as may be permitted or required by applicable law.
- 7.1.5 BDK uses Personal Information for one or more of the following non-exhaustive purposes –
  - 7.1.5.1 For the purposes of providing its services to the Data Subject from time to time;
  - 7.1.5.2 Personal Information is processed as part of the "Know Your Customer" / "KYC" process as per the requirements of the Financial Intelligence Centre Act No. 38 of 2001;
  - 7.1.5.3 Personal Information is processed in order to conduct due diligence processes on BDK Clients;
  - 7.1.5.4 Personal Information is processed for the purposes of performing general information technology-related functions for all business functions within the BDK;
  - 7.1.5.5 for purposes of interacting with you on our website and generally monitoring your use our website, including for purposes of improving same;
  - 7.1.5.6 Personal Information is processed in connection with internal audit purposes (i.e. ensuring that the appropriate internal controls are in place in order to mitigate the relevant risks, as well as to carry out any investigations where this is required);



- 7.1.5.7 Personal Information is processed for employment-related purposes such as administering payroll, assessing credit and criminal history, and determining Employment Equity Act No. 55 of 1998 statistics;
- 7.1.5.8 To respond to any correspondence that the Data Subject may send to BDK, including via email, BDK's site(s) or by telephone;
- 7.1.5.9 In connection with the execution of payment processing functions, including payment of BDK suppliers' invoices;
- 7.1.5.10 To contact the Data Subject for direct marketing purposes
- 7.1.5.11 For such other purposes to which the Data Subject may consent from time to time; and
- 7.1.5.12 For such other purposes as authorised in terms of applicable law.





## 7.2 **Categories of Data Subjects and of the Personal Information relating thereto**

7.2.1 BDK collects Personal Information directly from the Data Subject and/or from Third Parties, and where BDK obtains Personal Information from Third Parties, BDK will ensure that it obtains the consent of the Data Subject to do so or will only Process the Personal Information without the Data Subject's consent where BDK is permitted to do so in terms of the applicable laws.

7.2.2 Data Subjects in respect of which Personal Information is Processed include Clients of BDK, employees and candidates, and service providers.

7.2.3 Examples of Third Parties from whom Personal Information is collected include our Clients when BDK handles Personal Information on their behalf; regulatory bodies; credit reference agencies (such as, for example, TransUnion); other companies providing services to BDK (such as, for example, Lexis Nexis and other legal information services) and where BDK makes use of publicly available sources of information.

## 7.3 **Recipients or categories of recipients to whom Personal Information may be supplied**

7.3.1 BDK may share your Personal Information to third parties engaged by us, or our business partners, to assist us to provide our services to you. Such third parties or business partners may include –

7.3.1.1 hosting, data storage or archiving service providers and payment processing;

7.3.1.2 professional advisors; and

7.3.1.3 marketing, research and advertising agencies.

7.3.2 BDK may be required to disclose Personal Information in response to a court order, subpoena, civil discovery request, other legal process, or as otherwise required by law as per statutory authorities and/or the lawful order of any Court or Tribunal. We may disclose Personal Information when we believe disclosure is necessary to comply with the law or to protect the rights, property, or safety of BDK, our Clients, or others.



7.3.3 BDK will comply with POPIA before transferring Personal Information to a Third-Party who is not a contractor of BDK. Before transferring Personal Information to a Third-Party contractor, such as an authorised service provider, BDK will obtain assurances from the Third-Party that it will process Personal Information in a manner consistent with POPIA. Where BDK learns that a Third-Party contractor is using or disclosing Personal Information in a manner contrary to POPIA BDK will take reasonable steps to prevent such use or disclosure.

7.3.4 We reserve the right to disclose and transfer a Data Subject's information, including their Personal Information in connection with a corporate merger, consolidation, the sale of substantially all of our membership interests and/or assets or other corporate change, including to any prospective purchasers.

#### 7.4 **Planned Transborder Flows of Personal Information**

In carrying out any cross-border transfers, BDK shall adhere to the provisions of POPIA.

#### 7.5 **Information Security Measures**

7.5.1 The security and confidentiality of Personal Information is important to BDK. We have implemented reasonable technical, administrative, and physical security measures to protect Personal Information from unauthorised access or disclosure and improper use.

7.5.2 We are committed to ensuring that our security measures which protect your Personal Information are continuously reviewed and updated where necessary.

7.5.3 In Processing any Personal Information, BDK shall comply with the following minimum technical and organisational security requirements –

7.5.3.1 **Physical Access** – Access to Personal Information is restricted in our offices and only to those Employees who need the Personal Information to perform a specific job / task.

7.5.3.2 **Employee Training** – All Employees with access to Personal Information are kept up to date on our security and privacy practices. After a new policy is added, these Employees are notified and/or reminded about the importance we place on privacy, and what they can do to enhance protection for the Personal Information of all Data Subjects.



- 7.5.3.3 **Unique User Identification** – Employees each have a unique user ID assigned to them, subject to strict confidentiality undertakings in terms of BDK's password and confidentiality policy.
- 7.5.3.4 **Passwords** – BDK shall ensure that there are passwords required for any access to Personal Information in line with its password policy.
- 7.5.3.5 **Physical access and privileges** – BDK ensures that access to Personal Information is limited to Employees on a "need to know" basis, and BDK Employees are required to strictly utilise their unique user ID and applicable passwords to access same.
- 7.5.3.6 **Back-ups** – BDK ensures that all Personal Information is backed-up regularly, based on operational or legal requirements, and that back up testing is conducted regularly in order to ensure that Personal Information can be recovered in the event that such Personal Information is lost, damaged or destroyed.
- 7.5.3.7 **Malware protection** – BDK ensures that its environment has comprehensive malware protection software employed, which software is specifically designed to protect BDK from the most recent malware infections.
- 7.5.3.8 **Vulnerability scanning** – BDK frequently conducts vulnerability scanning in order to assess whether Personal Information is adequately protected from external threats.
- 7.5.3.9 **Systems Review** – BDK conducts regular reviews of its technical and organisational security measure system in order to ensure that all of the above security measures are functioning effectively and applied consistently.

## 8 **INFORMATION HELD BY BDK IN TERMS OF PAIA**

*(Information required under section 51(1)(e) of PAIA)*

- 8.1 This section of the Manual sets out the categories and descriptions of records held by BDK. The inclusion of any category of records should not be taken to mean that records falling within that category will be made available under PAIA. In particular, certain grounds of refusal as set out in PAIA may be applicable to a request for such records.

### 8.2 **Financial / accounting records**

- 8.2.1 Annual financial statements
- 8.2.2 Tax returns



- 8.2.3 Audit reports conducted for BDK
- 8.2.4 Invoices in respect of creditors and debtors of BDK
- 8.2.5 Fidelity Fund certificates
- 8.2.6 Bank facilities and account details
- 8.2.7 Details of accounting officer or auditors
- 8.2.8 Formal books of account and other financial statements
- 8.2.9 Source documents
- 8.2.10 Banking records
- 8.2.11 Management reports
- 8.3 **Company records**
  - 8.3.1 Company name documents
  - 8.3.2 Company registration documents
  - 8.3.3 Founding statement or Memorandum of Incorporation
  - 8.3.4 Share register and other statutory registers
  - 8.3.5 Minutes of meetings
- 8.4 **Human Resources records**
  - 8.4.1 List of employees
  - 8.4.2 Contracts of employment with employees of BDK
  - 8.4.3 Personnel records of each employee of BDK
  - 8.4.4 Disciplinary records
  - 8.4.5 Compensation or redundancy payments
  - 8.4.6 Records relating to conditions of employment
  - 8.4.7 Employment Equity Plan of BDK
  - 8.4.8 Pension and provident fund records
  - 8.4.9 Employee tax information



- 8.4.10 Training schedules and manuals
- 8.4.11 Agreements with clients of BDK
- 8.4.12 Files relating to client matters
- 8.4.13 Payroll records
- 8.4.14 Internal policies and procedures
- 8.5 **Client records**
  - 8.5.1 Client documentation in terms of Financial Intelligence Centre Act No. 38 of 2001
  - 8.5.2 Correspondence with clients
  - 8.5.3 Correspondence with third parties
  - 8.5.4 Records regarding legal proceedings involving clients at BDK
  - 8.5.5 Research conducted on behalf of clients of BDK
  - 8.5.6 Other information relating to, or held on behalf of BDK clients
- 8.6 **Intellectual property**
  - 8.6.1 Trade-marks, copyrights and designs held by BDK
  - 8.6.2 Software licences
  - 8.6.3 Records relating to domain names
- 8.7 **Immovable and movable property records**
  - 8.7.1 Agreements for the lease of immovable property by BDK
  - 8.7.2 Agreements for the lease or sale of movable property by BDK
  - 8.7.3 Records regarding insurance in respect of movable property
  - 8.7.4 Records regarding insurance in respect of immovable property
  - 8.7.5 Asset register
- 8.8 **Information technology**
  - 8.8.1 Records regarding computer systems and programmes held by BDK
  - 8.8.2 Precedent database



8.9 **Library information**

8.9.1 Electronic and hard copy publications of books, periodicals, circulars, and legislation



## 8.10 **Marketing**

8.10.1 Website - BDK website address is **www.bdk-attorneys.co.za** and is accessible to anyone who has access to the Internet. The website contains various categories of information relating to the firm, including areas of expertise; legal services; specialist fields; editorials; literature; careers; directors' résumés and contact details.

8.10.2 Marketing materials

8.10.3 Marketing campaign history

8.10.4 Marketing agreements

## 8.11 **Miscellaneous**

8.11.1 Security agreements, guarantees and indemnities

8.11.2 Internal correspondence

8.11.3 Suretyship agreements

8.11.4 Correspondence with the Legal Practice Council

8.11.5 Agreements with suppliers of BDK

8.11.6 Correspondence of BDK, including internal and external memoranda

## 9 **INFORMATION KEPT BY BDK IN ACCORDANCE WITH OTHER LEGISLATION**

*(Information required under section 51(1)(b)(iii) of PAIA)*

9.1 Records are kept in accordance with legislation applicable to BDK, which includes but is not limited to, the following:

9.1.1 Administration of Estates Act No. 66 of 1965

9.1.2 Attorneys Act No. 53 of 1979

9.1.3 Basic Conditions of Employment Act No. 75 of 1997

9.1.4 Companies Act No. 61 of 1973 (repealed, save for chapter 14)

9.1.5 Companies Act No.71 of 2008



- 9.1.6 Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
- 9.1.7 Competition Act No.89 of 1998
- 9.1.8 Constitution of the Republic of South Africa, 1996
- 9.1.9 Consumer Protection Act No.68 of 2008
- 9.1.10 Copyright Act No. 98 of 1978
- 9.1.11 Credit Agreements Act No. 75 of 1980 (repealed)
- 9.1.12 Currency and Exchanges Act No. 9 of 1933
- 9.1.13 Debt Collectors Act No. 114 of 1998
- 9.1.14 Electronic Communications and Transactions Act No.25 of 2002
- 9.1.15 Employment Equity Act No.55 of 1998
- 9.1.16 Financial Intelligence Centre Act No. 38 of 2001
- 9.1.17 Income Tax Act No.58 of 1962 (Section 75)
- 9.1.18 Insolvency Act No.24 of 1936
- 9.1.19 Labour Relations Act No.66 of 1995
- 9.1.20 Legal Practice Act No.28 of 2014
- 9.1.21 Medical Schemes Act No. 131 of 1998
- 9.1.22 National Credit Act No.34 of 2005
- 9.1.23 Occupational Health and Safety Act No.85 of 1993
- 9.1.24 Promotion of Access to Information Act No.2 of 2000
- 9.1.25 Pension Funds Act No.24 of 1956
- 9.1.26 Promotion of Access to Information Act No.2 of 2000
- 9.1.27 Protection of Personal Information Act No.4 of 2013
- 9.1.28 Regulation of Interception of Communications and Provision of Communication-Related Information Act No.70 of 2002
- 9.1.29 Stamp Duties Act No. 77 of 1968 (repealed)





- 9.1.30 Skills Development Act No.97 of 1998
- 9.1.31 Skills Development Levies Act No. 9 of 1999
- 9.1.32 Tax Administration Act No.28 of 2011
- 9.1.33 Tax on Retirement Funds Act No.38 of 1996
- 9.1.34 Trade Marks Act No.194 of 1993
- 9.1.35 Trust Property Control Act No. 57 of 1988
- 9.1.36 Unemployment Insurance Act No. 63 of 2001
- 9.1.37 Unemployment Insurance Contributions Act No. 4 of 2002
- 9.1.38 Value Added Tax Act No.89 of 1991

9.2 Records kept in terms of the above legislation may, in certain instances (and insofar as the information contained therein is of a public nature) be available for inspection without a person having to request access thereto in terms of PAIA.

## 10 REQUEST PROCEDURES

10.1 Records, whether specifically listed in this Manual or not, will only be made available subject to the provisions of PAIA.

### 10.2 Form of request

10.2.1 The Requester must use the prescribed form to make the request for access to a record, which form is attached hereto as Annexure "A". This must be made to the Information Officer at the address or electronic mail address of the body concerned (*see s 53(1) of PAIA*).

10.2.2 The Requester must provide sufficient detail on the request form to enable the Information Officer to identify the record and the Requester. The Requester should also indicate which form of access is required and specify a postal address, fax number in the Republic or email address. 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 (*see s 53(2)(a) and (b) and (c) and (e) of PAIA*).

10.2.3 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 (*see s 53(2)(d) of PAIA*).



10.2.4 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 of the private body (See s 53(2)(f) of PAIA).

### 10.3 Fees

#### 10.3.1 Request fees:

10.3.1.1 The Information Officer must by notice require the Requester to pay the prescribed request fee (if any) before further processing the request (see s 54(1) of PAIA).

10.3.1.2 The fee that the Requester must pay to a private body is R50. The Requester may lodge an application to the court against the tender or payment of the request fee (See section 54(3)(b) of PAIA).

#### 10.3.2 Access fees and fees for reproduction:

10.3.2.1 If access to a record/s is granted by BDK, the Requester may be required to pay an access fee for the search for and preparation of the records and for reproduction of the record/s. (See section 54(6) of PAIA)

10.3.2.2 The access fees which apply are set out below. BDK can refuse access until such access fees have been paid. (See section 54(5) of PAIA)

	<b>Reproduction</b>	<b>Fee (Rand)</b>
1.	Photocopy of an A4-size page or part thereof provided in hard copy or via scanned copy sent via email	R1.10 per page
2.	Printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	R0.75 per page
3.	A copy of, in a computer readable form on compact disc	R70.00
4.	Transcription of visual images on an A4-size page or part thereof	R40.00 per page
5.	Copy of visual images	R60.00



6.	Transcription of an audio record on an A4-size page or part thereof	R20.00
7.	Copy of an audio record	R30.00

#### 10.4 **Decision on request**

10.4.1 After the Information Officer has made a decision on the request, the Requester will be notified using the required form. (*See section 56(1)(b) of PAIA*)

10.4.2 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 (*see s 54(6) of PAIA*).

### 11 **TIMELINES FOR CONSIDERATION OF A REQUEST**

*(See section 56 and 57 of PAIA)*

11.1 Requests for access by a Requestor will be processed within 30 days, unless the request contains considerations that are of such a nature that an extension of the 30-day time limit is necessary. Such considerations include –

11.1.1 where the request is for a large number of records or requires a search through a large number of records (including where records that have been archived electronically need to be restored);

11.1.2 where the request requires a search for records in, or collection of such records from, an office of BDK located far away from Johannesburg;

11.1.3 consultation among divisions of BDK or with another private body is necessary or desirable to decide upon the request that cannot reasonably be completed within the original 30-day period;

11.1.4 more than one of the circumstances contemplated in paragraphs 11.1.1, 11.1.2 and 11.1.3, exist in respect of the request making compliance with the original period not reasonably possible; or

11.1.5 the Requester consents in writing to such extension.

11.2 If an extension is necessary, you will be notified with reasons for the extension. If the Information Officer fails to communicate a decision on a request, such a request is then deemed to have been refused.



## 12 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

*(See chapter 4 of Part 3 of PAIA)*

- 12.1 Subject to Clause 12.1.3, requests for access by a Requestor **must** be refused by the Information Officer if –
- 12.1.1 the disclosure would involve the unreasonable disclosure of personal information about a third party (natural person), including a deceased individual (see section 63 of PAIA);
  - 12.1.2 the record contains (a) trade secrets of a third party, (b) financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party, or (c) information supplied in confidence by a third party the disclosure of which could reasonably be expected to put that third party at a disadvantage in contractual or other negotiations; or to prejudice that third party in commercial competition (see section 64 of PAIA);
  - 12.1.3 the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement (see section 65 of PAIA);
  - 12.1.4 the disclosure could reasonably be expected to endanger the life or physical safety of an individual (see section 66(a) of PAIA);
  - 12.1.5 the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege (see section 67 of PAIA); or
  - 12.1.6 the record contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose: (a) the third party; (b) a person that is or will be carrying out the research on behalf of the third party; or (c) the subject matter of the research, to serious disadvantage (see section 69 of PAIA).
- 12.2 Requests for access by a Requestor may be refused by the Information Officer if –
- 12.2.1 the disclosure would be likely to prejudice or impair: (i) the security of: (aa) a building, structure or system, including, but not limited to, a computer or communication system; (bb) a means of transport; or (cc) any other property; or (ii) methods, systems, plans or procedures for the protection of: (aa) an individual in accordance with a witness protection scheme; (bb) the safety of the public, or any part of the public; or (cc) the security of property contemplated in subparagraph (i) (aa), (bb) or (cc) (see section 66(b));



12.2.2 the record:

- (a) contains trade secrets of BDK;
- (b) contains financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of BDK;
- (c) contains information, the disclosure of which could reasonably be expected:
  - (i) to put BDK at a disadvantage in contractual or other negotiations; or
  - (ii) to prejudice BDK in commercial competition; or
- (d) is a computer program, as defined in section 1(1) of the Copyright Act No. 98 of 1978, owned by BDK, except insofar as it is required to give access to a record to which access is granted in terms of PAIA; or

12.2.3 the record contains information about research being or to be carried out by or on behalf of BDK, the disclosure of which would be likely to expose: (a) BDK; (b) a person that is or will be carrying out the research on behalf of BDK; or (c) the subject matter of the research, to serious disadvantage.

### 13 REMEDIES AVAILABLE TO A REQUESTOR ON REFUSAL OF ACCESS

13.1 BDK does not have any internal appeal procedures that may be followed once a request to access information has been refused.

13.2 The decision of the Information Officer or deputy information officer is final.

13.3 If you are not satisfied with the outcome of your request, you are entitled to apply to a court of competent jurisdiction to take the matter further. (*See section 78 of PAIA*)

### 14 OTHER INFORMATION HELD BY BDK AS PRESCRIBED

*(Other information as may be prescribed under section 51(1)(a)(ii))*

The Minister of Justice and Constitutional Development has to date not made any regulations regarding disclosure of other information.

### 15 AVAILABILITY OF THE MANUAL

*(Availability of Manual under section 51(3))*



- 15.1 This Manual is available for inspection by the general public upon request, during office hours and free of charge, at the offices of BDK. Copies of the Manual may be made, subject to the prescribed fees.
- 15.2 Copies may also be requested from the South African Information Regulator.
- 15.3 The Manual is also posted on BDK website referred to above.

## 16 **PRESCRIBED FORMS AND FEE STRUCTURE**

*(Prescribed forms and fee structure in respect of private bodies)*

The forms and fee structure prescribed under PAIA are available from the Government Gazette, or at the website of the Department of Justice and Constitutional Development ([www.doj.gov.za](http://www.doj.gov.za)), under the 'regulations' section as well as the SAHRC website ([www.sahrc.org.za](http://www.sahrc.org.za)).



ANNEXURE "A" – FORM C – PRESCRIBED FORM TO MAKE REQUEST FOR ACCESS

**Form C**  
**Request for access to record of private body**

(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act 2 of 2000))  
[Regulation 10]

**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 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: \_\_\_\_\_

\_\_\_\_\_

**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 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:
<hr/>	<hr/>
<hr/>	<hr/>

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 to the record, if any, will be determined partly by the form in which access is requested.*

**1 If the record is in written or printed form:**

<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	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) :

<input type="checkbox"/>	view the images	<input type="checkbox"/>	Copy the images*	<input type="checkbox"/>	transcription of the images*
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**3 If record consists of recorded words or information which can be reproduced in sound:**

<input type="checkbox"/>	listen to the soundtrack (audio cassette)	<input type="checkbox"/>	transcription of soundtrack* (written or printed document)
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**4 If record is held on computer or in an electronic or machine-readable form:**

<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)
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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.***

1 Indicate which right is to be exercised or protected:

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2 Explain why the record requested is required for the exercise or protection of the aforementioned right:

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**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?

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Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20

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\_\_\_\_\_  
SIGNATURE OF REQUESTER/  
PERSON ON WHOSE BEHALF  
REQUEST IS MADE