

SPOOR & FISHER

PROMOTION OF ACCESS TO INFORMATION MANUAL

**PREPARED IN TERMS OF SECTION 51 OF THE PROMOTION
OF ACCESS TO INFORMATION ACT 2 OF 2000 (“Act”)**

1. Introduction

Spoor & Fisher is defined as a private body in terms of the Act.

Spoor & Fisher handles the filing, registration, prosecution and enforcement of trade marks, patents, designs and copyright. Clients also choose us to draft agreements for their commercial intellectual property (IP) transactions and to negotiate the best terms. Our intricate knowledge of over 80 different intellectual property (IP) laws and practices across our core geographical regions - Africa and the Caribbean - means that we create and implement robust intellectual property (IP) protection strategies.

Consistency in quality and record-keeping comes with having Spoor & Fisher as a single point of contact to manage entire intellectual property (IP) portfolios. We work directly with corporates - global companies to small businesses - their main legal advisors as well as inventors. Clients from across the globe, including Africa-based businesses, have asked us to help protect and enforce their intellectual property (IP) assets in their chosen markets.

2. Purpose

The purpose of this Manual is to assist potential Requesters wishing to access information in terms of the Act from Spoor & Fisher.

3. Definitions

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

"Act" means the Promotion of Access to Information Act No. 2 of 2000, together with any regulations published thereunder;

"Client" means a natural or juristic person who or which receives services from Spoor & Fisher;

"Company" means Spoor & Fisher;

"Constitution" means the Constitution of the Republic of South Africa Act 108 of 1996;

"Correspondence" means written and electronic communication exchanged between two or more parties;

"Employee" means any person who works for, or provides services to, or on behalf of Spoor & Fisher, and receives or is entitled to receive remuneration;

"Head of the private body" means the Chairperson of the Executive Committee of Spoor and Fisher;

"Information Officer" means the designated information officer/s or the head of the body, as described in this Manual;

"Manual" means this manual, together with all annexures thereto as amended and made available at the offices of Spoor & Fisher from time to time;

"Requester" means any person or entity requesting access to a record that is under the control of Spoor & Fisher; and

"SAHRC" means the South African Human Rights Commission.

"Section 10 Guide" means the guide compiled by the South African Human Right Commission in terms of section 10 of the Promotion of Access to Information Act No 2 of 2000.

4. Contact details in terms of Section 51(1)(a)

Name of Private Body: Spoor & Fisher

Chairperson of the Executive Committee: Lodewyk Cilliers

Email: l.cilliers@spoor.com

Information Officer: Jacobus de Bruin

Email: data.officer@spoor.com

Postal Address: PO Box 454
Pretoria
0010

Physical Address: 11 Byls Bridge Boulevard
Building No. 14
Highveld Ext 73
Centurion

Pretoria
South Africa
0157

Docex: 61, Pretoria
Phone number: (012) 676 1111
Fax number: (012) 676 1100

5. Section 10 guide in terms of Section 51(1)(b)

The Act 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, the public body must be acting in the public interest.

Request in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in Annexures 1 and 2 of this manual.

Requesters are referred to the Guide compiled by the SAHRC, which contain information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC whose details are:

Postal address: Private Bag X2700
Houghton
2041

Telephone: (011) 877-3600
Fax: (011) 403-0625
Email: PAIA@sahrc.org.za
Website: www.sahrc.org.za

The Information Regulator will be taking over the function of the Promotion of Access to Information Act (PAIA) from the South African Human Rights Commission (SAHRC) from 1 July 2021.

The contact details of the Information Regulator are:

Email: infoereg@justice.gov.za
Address: JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001
Website: www.justice.gov.za/infoereg/

6. Records available in terms of Section 51(1)(d)

The company keeps records in accordance with the applicable legislation, which includes, but is not limited to the following:

Arbitration Act 42 of 1965
Attorneys Act 53 of 1979
Basic Conditions of Employment Act 75 of 1997
Companies Act 71 of 2008
Compensation for Occupational Injuries and Diseases Act 130 of 1993
Competition Act 89 of 1998
Consumer Protection Act 68 of 2008
Copyright Act 61 of 1978
Counterfeit Goods Act 37 of 1997
Currency and Exchanges Act 9 of 1933
Designs Act 195 of 1993
Electronic Communications and Transactions Act 25 of 2002
Employment Equity Act 55 of 1998
Financial Advisory and Intermediary Services Act no 37 of 2002
Financial Intelligence Centre Act 38 of 2001
Income Tax Act 58 of 1962
Information Act 70 of 2002
Insolvency Act 24 of 1936
Insurance Act 27 of 1943
Intellectual Property Laws Amendments Act 38 of 1997
Interception and Monitoring Prohibition Act 127 of 1992
Labour Relations Act 66 of 1995
Long Term Insurance Act 52 of 1998
Occupational Health and Safety Act 71 of 1997
Patents Act 57 of 1978
Pension Funds Act 24 of 1956
Plant Breeders' Rights Act 15 of 1976
Prevention of Organised Crime Act 121 of 1998
Promotion of Access of Information Act 2 of 2000
Protection of Business Act 99 of 1978
Registration of Copyright in Cinematograph Films Act 62 of 1977
Short Term Insurance Act 53 of 1998
Skills Development Act 97 of 1998
Skills Development Levies Act 9 of 1999
Stamp Duties Act 77 of 1968
Tax on Retirement Funds Act 38 of 1996
The Co-operatives Act 14 of 2005

The Fund-Raising Act 107 of 1978
The National Credit Act 34 of 2005
Trade Marks Act 194 of 1993
Trust Property Control Act 63 of 2001
Unemployment Insurance Act 63 of 2001
Unemployment Insurance Contributions Act 4 of 2002
Value Added Tax Act 89 of 1991

7. Request procedure for access to information in terms of section 51(e)

Request for access to records held by the company must be made on the request forms that are available from the SAHRC website (www.sahrc.org.za) or the Department of Justice and Constitutional Development website (www.doj.gov.za) (under "regulations"). For the convenience of requestors, copies of these forms are included in the version of this Manual.

Request for access to records must be made to our Information Officer at the address, fax number or electronic mail address provided above.

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 indicate if he or she wishes to be informed in any other manner and state the necessary particulars to be so informed.

It is vital that the requester identifies the right that he or she is seeking to exercise or protect and provides 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 then submit proof of capacity in which the requester is making the request to the satisfaction of our Information Officer.

If a requester does not use the standard form (Annexure 1), the request may be rejected for lack of procedural compliance, refused (if sufficient information is not provided, or otherwise) or delayed.

Please note that requestors are also required to pay the prescribed fees. The list of prescribed fees in respect of requests, and in respect of access to records (if the request is granted) is attached as Annexure 2.

The head of the private body must notify the requester (other than a personal requester) of the prescribed fee (if any) before further processing the request. The requester may lodge an internal appeal or an application to Court against the tender or payment of the request fee.

The head of the private body will then make a decision on the request and notify the requester in the required form.

If the request is granted then a further access fee must be paid for the reproduction and the search and preparation, and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

Kindly note that all request to the company will be evaluated and considered in accordance with the Act. Publication of this Manual and describing the categories and subject matter of information held by the company does not give rise to any rights to access such information or records, except in terms of the Act.

8. Information held by Spoor & Fisher in terms of section 51(1)(e)

We maintain records on the following categories and subject matters. However, please note that recording a category or subject matter in this Manual does not imply that a request for access to such record would be honoured.

All request for access will be evaluated on a case by case basis in accordance with the provisions of the Act. In particular, there may be applicable grounds of refusal of such a request, as set out in the Act.

Please note further that many of the records held by us are those of third parties, such as clients and employees, and we take the protection of third party confidential information very seriously. Many of the records are confidential and other are the property of the client and not of Spoor & Fisher. Request for access to these records will be considered very carefully.

Please ensure that request for such records are carefully motivated.

Category of record	Description of record
Management	Documents pertaining to the Partnership and the Partners of Spoor & Fisher. Resolution of the Partners of Spoor & Fisher. Minutes of internal meetings including Partners meetings and committees.
Finance	Accounting Records. Annual Financial Statements. Asset Register. Bank statements. Banking Records. Customer Invoices. Rental Agreements. Supplier Invoices. Audit Reports. Fidelity Fund certificates.
Taxes	Income Tax Returns. PAYE records. SDL records. UIF records. Value Added Tax Records. Workmans Compensation Records.
Personnel Documents and Records	Personnel records of each employee. Employment Contracts. Employment Equity Plan. Records relating to conditions of employment. Medical Aid Records. Pension Fund Records. Disciplinary records. Disciplinary codes. Salary records. SETA records. Leave Records. Training Records. Training Manuals. Internal policies and procedures.
Spoor & Fisher clients	Agreements with clients. Files relating to client matters. Client documentation in terms of Financial Intelligence Centre Act No. 38 of 2001. Correspondence with clients. Correspondence with third parties.

	<p>Records regarding legal proceedings involving clients.</p> <p>Research conducted on behalf of clients.</p> <p>Other information relating to, or held on behalf of Spoor & Fisher clients.</p> <p>Licences relating to intellectual property rights</p> <p>Records relating to domain names.</p>
Marketing	<p>Company brochures and publications.</p> <p>Documents relating to public relation events.</p> <p>Company media releases.</p>
Intellectual Property	<p>Trade-marks, copyrights and designs.</p> <p>Software licences.</p>
Immovable and Movable Property	<p>Agreements for the lease of immovable property.</p> <p>Agreements for the lease or sale of movable property.</p> <p>Records regarding insurance in respect of movable property.</p> <p>Records regarding insurance in respect of immovable property.</p> <p>Asset register.</p>
Information Technology	<p>Records regarding computer systems and programmes.</p> <p>Precedent database.</p>
Library Information	<p>Electronic and hard copy publications of books, periodicals, circulars, and legislation.</p>
Miscellaneous	<p>Security agreements, guarantees and indemnities.</p> <p>Marketing agreements.</p> <p>Internal correspondence.</p> <p>Suretyship agreements.</p> <p>Correspondence with the Law Society of the Northern Provinces.</p> <p>Agreements with suppliers.</p> <p>Correspondence including internal and external Memoranda.</p>

9. INFORMATION OR RECORDS NOT FOUND

If all reasonable steps have been taken to locate a record, and such a record cannot be found or does not exist, then the company will notify the requester of this, by way of an affidavit or affirmation.

The affidavit or affirmation will provide a full account of all the steps taken to find the record or to determine the existence thereof.

If the record in question is later be found by the company, the requester will be notified and shall be given access to the record in the manner stipulated by the requester in the prescribed form previously lodged by the requester unless access is refused by the head of the company.

In terms of the provisions of Chapter 4 of Part 3 of the Act, the company may refuse, on certain specified grounds, to provide information to a requester.

10. INFORMATION REQUESTED ABOUT A THIRD PARTY

Sections 71 to 74 of the Act makes provision for a request for information or records about a third party.

The company will notify the third party of the request lodged in respect of information applicable to or concerning such third parties.

The third party will make written or oral representations to the head concerned why the request should be refused; or give written consent for the disclosure of the record to the requester concerned.

If the company grants access to the record, the provisions of Chapter 2 of Part 4 of the Act entitles third parties to dispute the decisions of the head of the company by referring the matter to a competent Court.

ANNEXURE 1 - 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 Information Officer: Spoor & Fisher

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 <i>ONLY</i> if a request <i>for information</i> is made on behalf of <i>another</i> person.
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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

- | |
|--|
| <p>(a) A request for access to a record, other <i>than</i> a record containing personal information about yourself, will be processed only after a request fee has been paid.</p> <p>(b) You will be <i>notified of</i> the amount required to be paid as the request fee.</p> <p>(c) The fee payable for access to a record depends <i>on</i> the form <i>in which</i> access is required and the reasonable time <i>required</i> to search for and prepare a record.</p> <p>(d) If you qualify for exemption <i>of</i> the payment <i>of</i> any fee, please state the reason for exemption.</p> |
|--|

Reason for exemption from payment of fees:

F. Form of access to record

<p>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.</p>
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Disability:	Form in which record is required
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.

1. If the record is in written or printed form:			
	copy of record*		inspection of record
2. If record consists of visual images this includes photographs, slides, video recordings, computer-generated images, sketches, etc)			
	view the images	copy of the images"	transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:			
	listen to the soundtrack audio cassette		transcription of soundtrack* written or printed document
4. If record is held on computer or in an electronic or machine-readable form:			

	printed copy of record*		printed copy of information derived from the record"		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? Postage is payable.					YES	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 of20

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE

ANNEXURE 2

FEES IN RESPECT OF PRIVATE BODIES

1.	The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1,10 for every photocopy of an A4-size page or part thereof.	
2.	The fees for reproduction referred to in regulation 11(1) 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
3.	The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) if R50,00.	
4.	The access fees payable by a requester referred to in regulation 11(3) are as follows:	
		R
	(1) (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) 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.	
	(3) The actual postage is payable when a copy of a record must be posted to a requester.	