



**MANUAL**

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### **GWK LTD: POLICY ON THE RETENTION & CONFIDENTIALITY OF DOCUMENTS, INFORMATION AND ELECTRONIC TRANSACTIONS**

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#### **AVAILABILITY OF THE MANUAL**

a) This manual is available for inspection during office hours and at no charge.

b) Should you wish to obtain a copy of this manual or part thereto such copy can be obtained from either:

- the address set out in part 1 paragraph 6, subject to payment of applicable fees (refer to Annexure B); or
- download from our website at [www.gwk.co.za](http://www.gwk.co.za)



LIMITED and all its subsidiaries  
(hereinafter referred to as "GWK")  
(a Private Body)

(Registration number 1997/022252/06)

Prepared in accordance with section 51 of the Promotion of Access to Information  
Act, No 2 of 2000

Last Updated: 23 December 2015

## **1 INTRODUCTION**

In terms of Section 32 of the Bill of Rights in the Constitution of the Republic of South Africa, Act No.108 of 1996 every person has a right to access information. In order to fulfil this constitutional obligation, the Promotion of Access to Information Act No. 2 of 2000 ("the Act") was assented to by Parliament.

The purpose of the Act is to give effect to the constitutional right of access to any information held by the state, public and private companies as well as information held by another person that is required for the exercise or protection of any right.

The motivation for giving effect to the right of access to information is to:

- Foster a culture of transparency and accountability in both public and private bodies.
- Promote a society in which the people of the Republic of South Africa have effective access to information to enable them to more fully exercise and protect all their rights.

Section 9 of the Act however recognises that such right of access to information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:

- Limitation aimed at the reasonable protection of privacy;
- Commercial confidentiality; and
- Effective, efficient and good governance;

and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

## 2 PURPOSE

The purpose of this manual is to facilitate requests for access to information of GWK and its subsidiaries.

This manual is not exhaustive of, nor does it comprehensively deal with, every procedure provided for in the Act. Requesters are advised to familiarise themselves with the provisions of the Act before making any requests to GWK in terms of the Act.

GWK makes no representation and gives no undertaking or warranty that the information in this manual or any information provided by it to a requester is complete or accurate, or that such information is fit for any purpose. All users of any such information shall use such information entirely at their own risk, and GWK shall not be liable for any loss, expense, liability or claims, howsoever arising, resulting from the use of this manual or of any information provided by GWK or from any error therein.

All users irrevocably agree to submit exclusively to the laws of the Republic of South Africa and to the exclusive jurisdiction of the Courts of South Africa in respect of any dispute arising out of the use of this manual or any information provided by GWK.

## 3 BACKGROUND INFORMATION OF GWK

Background information on GWK is available on the GWK website – [www.gwk.co.za](http://www.gwk.co.za).

## 4 THE MAIN BUSINESS ACTIVITIES OF GWK

To create sustainable welfare for participating stakeholders within the food supply chain as an Agri-business. To be the Agri-leader in the food value chain.

## 5 THE HOLDING AND SUBSIDIARY COMPANIES OF GWK

NAME	REGISTRATION NO
Curions (Pty) Ltd	(Reg. nr: 2006/001972/07)
S.A. Feed Phosphates (Pty) Ltd	(Reg. nr: 1995/004936/07)
Westra Nywerhede (Pty) Ltd	(Reg. nr: 1954/002635/07)
Sidi Parani (Pty) Ltd	(Reg. nr: 1973/011784/07)
Vaalwes Landboudienste (Edms) Bpk	(Reg. nr: 1987/001224/07)
Flotank (Pty) Ltd	(Reg. nr: 2005/040068/07)
Midlands Veterinary Wholesalers (Pty) Ltd	(Reg. nr: 1995/006352/07)
Noord-Kaap Saadverwerking (Pty) Ltd	(Reg. nr: 1997/006219/07)
GWK Properties (Pty) Ltd	(Reg. nr: 2001/011794/07)
GWK Trading (Pty) Ltd	(Reg. nr: 1973/004780/07)
Noord-Kaap Laboratorium (Pty) Ltd	(Reg. nr: 1995/008183/07)
Synergeo IT-Systems (Pty) Ltd	(Reg. nr: 1998/004928/07)

Bullhill Ontwikkeling (Pty) Ltd	(Reg. nr: 2004/020397/07)
Cumacor 176 (Pty) Ltd	(Reg. nr: 2010/023216/07)
Own Crop (Pty) Ltd	(Reg. nr: 1999/028372/07)
Triotrade Gauteng (Pty) Ltd	(Reg. nr: 2012/113808/07)
GWK Vleis Meat (Pty) Ltd	(Reg. nr: 2000/009488/07)
Certified Natural (Pty) Ltd	(Reg. nr: 2000/028136/07)
Tri-Star Custom Feeders (Pty) Ltd	(Reg. nr. 1999/023285/07)

## PART I

### 6 CONTACT DETAILS

#### INFORMATION OFFICER

- Name: The Group Company Secretary: Juan Kotze;
- Postal address: P.O. Box 47, Douglas, 8730;
- Telephone number: (053) 298 8200;
- Facsimile number: (053) 298 2445;
- E-mail address: juank@gwk.co.za.

#### DEPUTY INFORMATION OFFICER

- Name: The Assistant Group Company Secretary: Marika Badenhorst;
- Postal address: P.O Box 47, Douglas, 8730;
- Telephone number: (053) 298 8200;
- Facsimile number: (053) 298 2445;
- E-mail address: marikab@gwk.co.za

### 7 GENERAL INFORMATION OF GWK

- Name of Private Body: The GWK Ltd;
- Physical Address: De Villiers Street, Douglas, 8730;
- Postal Address: P.O. Box 47, Douglas 8730;
- Telephone Number: (053) 298 8200;
- Facsimile number: (053) 298 2445;
- Website: www.gwk.co.za

## **8 GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

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.

Requests 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 paragraphs 6 and 7 of the Act.

Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC.

The contact details of the Commission are:

Postal Address: Private Bag 2700, Houghton, 2041  
Telephone Number: +27-11-484 8300  
Fax Number: +27-11-484 1360  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)

## **9 THE FOLLOWING RECORDS ARE AVAILABLE IN TERMS OF SECTION 51(1)(D) OF THE ACT.**

GWK has records available in terms of the following legislation of the Republic of South Africa:

- Basic Conditions of Employment Act, No. 75 of 1997;
- Companies Act, No. 71 of 2008
- Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993;
- Competition Act, No. 89 of 1998;
- Constitution of the Republic of South Africa Act, No. 108 of 1996;
- The Criminal Procedure Act, No. 51 of 1977;
- Deed Registries Act, No. 47 of 1937;
- Employment Equity Act, No. 55 of 1998;
- Financial Intelligence Centre Act, No. 38 of 2001;
- Identification Act, No. 68 of 1997;

- National Credit Act, No. 34 of 2005
- Insolvency Act, No. 24 of 1936;
- Inspection of Financial Institutions Act, No. 18 of 1998;
- The Labour Relations Act, No. 66 of 1995;
- The Long Term Insurance Act, No. 52 of 1998;
- Pension Funds Act, No. 24 of 1956;
- Short Term Insurance Act, No. 53 of 1998;
- Skills Development Levies Act, No. 9 of 1999;
- Unemployment Insurance Act, No. 63 of 2001;
- Unit Trust Control Act, No. 54 of 1981;
- Value Added Tax Act, No. 89 of 1991;
- Electronic Communication and Transactions Act, No. 25 of 2002;
- Financial Advisory and Intermediary Service Act, No. 37 of 2002;
- Patents, Designs and Copyright Merchandise Marks Act, No. 17 of 1941;
- Income Tax Act, No. 58 of 1962;
- Occupational Health and Safety Act No. 85 of 1993;
- Co-operatives Act No. 14 of 2005;
- Customs and Excise Act No. 91 of 1964;
- Insider Trading Act No. 135 of 1998;
- Prevention of Organised Crime Act No. 121 of 1998;
- Road Transportation Act No. 74 of 1977;
- Stock Exchanges Control Act No. 54 of 1995;
- Transfer Duty Act No. 40 of 1949;
- Machinery and Occupational Safety Amendment Act No. 181 of 1993;
- National Payment Systems Act No. 78 of 1998;
- National Water Act No. 36 of 1998;
- Prescription Act No. 68 of 1969;
- Trademark Act No. 194 of 1993;
- Intellectual Property Laws Amendment Act No.38 of 1997
- Financial Markets Act No. 19 of 2012

**10 INFORMATION AVAILABLE IN TERMS OF SECTION 52 OF THE ACT**

Inspection of the company registers and records pertaining to:

- Directors and officers;
- Interests of directors;
- Shareholders;
- Allotments;
- Minutes of meetings of members (only shareholders);
- Licences and permits;
- Liquor Licences;
- Stock remedies and poisonous materials;
- Weapons and ammunition;
- Trademarks and commodity brochures and relevant information;
- Annual reports; and
- Interim reports.

**11 DESCRIPTION OF THE SUBJECTS AND CATEGORIES OF RECORDS HELD BY GWK.**

The description of the subjects and categories of records held by GWK are the following:

**Incorporation documents**

- The memorandum of association of GWK.
- The articles of association of GWK.
- The GWK Company registration forms.

**Secretarial records**

The share register of GWK;

Shareholders' agreements of GWK, including pre-emption, option and nominee agreements;

Minutes of general meetings of the shareholders of GWK;



### **Register or list of directors of GWK**

Minute books of internal resolutions of GWK;

Power of attorney agreements and a list of persons authorised to bind GWK;

Statutory registers of GWK;

### **Financial records of GWK**

- Accounting records, books and documents of GWK.
- Interim and annual financial reports of GWK.
- Details of the auditors of GWK;
- Auditors' reports in respect of audits conducted on GWK.
- Tax returns of GWK.
- Other documents and agreements pertaining to tax;
- Financial records of GWK.

### **Human resources / employment records**

- List of employees.
- Employee benefits.
- Documents in respect of share incentive scheme or trust;
- Information pertaining to share options, share incentives, bonus or profit sharing agreements of each employee;
- Arbitration orders and agreements;
- Attendance registers at working stations and head office;
- Any other information pertaining to employees of GWK.

### **Pension and provident funds**

- A manual regarding the processes and rules of the pension fund;
- Lists of employees who belong to the respective funds;
- Minutes of meetings of trustees;
- Financial records of the pension and provident funds.

### **Insurance records**

- Family insurance;
- Group life insurance;
- Spouse insurance;
- Disability insurance;
- Retirement insurance.

### **Immovable and movable property**

- Asset register;
- Title deeds of any land owned by GWK.
- Agreements for the lease or sale of land and/or other immovable property by GWK.
- Agreements for the lease of movable property by GWK.
- Mortgage bonds, liens, notarial bonds or security interests on property.
- Other agreements for the purchase, ordinary sale, conditional sale, or hire of assets.

### **Client agreements**

- Agreements for the supply of production and/or trading credit;
- Security agreements, deeds, guarantees, cession and bonds for credit;
- Details of clients and correspondence;
- Invoices, receipts, credit and debit notes.

### **Miscellaneous agreements of GWK**

- Suretyship agreements.
- Agreements for the trading activities of GWK.
- Agency, management and distribution agreements.
- Agreements with suppliers of GWK.
- Agreements with clients of GWK.
- Credit facilities and letters of credit.

## **Correspondence**

- Correspondence with clients of GWK.

All of the above are available per request, see point 14 below.

## **PART VI**

### **12 THE MANNER IN WHICH THE ABOVE RECORDS WILL BE MADE AVAILABLE**

The above-mentioned records are available for public inspection at the offices of GWK during office hours, by prior arrangement with the Information Officer, subject to the grounds of refusal mentioned in the Act.

### **13 REMEDIES AVAILABLE WHEN GWK REFUSES A REQUEST FOR INFORMATION**

#### **Internal Remedies**

GWK does not have internal appeal procedures, the Commission/Courts will have to be approached if the request for information is refused. This would apply to any situation in which the requester wishes to appeal a decision made by the Information Officer.

#### **External Remedies**

A requester who is dissatisfied with an Information Officer's refusal to disclose information, may, within 30 days of notification of the decision, apply to a Court for relief. Likewise, a third party dissatisfied with an information officer's decision to grant a request for information, may, within 30 days of notification of the decision, apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and the Magistrates Court.

### **14 REQUEST PROCEDURE**

The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

The requester must complete the prescribed attached form (Form C), as well as payment of a request fee and a deposit, if applicable.

GWK will process the request within 30 days.

The requester shall be informed whether access is granted or denied.

The requester must indicate that he/she requires the information in order to exercise or protect a right.

## **15 ACCESS TO RECORDS HELD BY GWK**

Records held by GWK may be accessed by requests only once the prerequisite requirements for access have been met.

A requester is any person making a request for access to a record of GWK.

## **16 REQUESTER**

A personal requester is a requester who is seeking access to a record containing personal information about the requester.

GWK will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

The requester (other than a personal requester) is entitled to request access to information on third parties. However, GWK is not obliged to voluntarily grant access. The requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

## **17 REQUEST**

A request for access to a record must be made on the prescribed form (Form C) to the Information Officer at his/her address, facsimile number or e-mail address.

The requester must provide sufficient detail on the request form to enable the Information Officer to identify the record requested and the requester. When completing a request on the prescribed form, the requester should also indicate:

- the preferred language if applicable;
- whether the requester wishes to be informed of the decision in another manner in addition to a written reply; and
- a facsimile number and/or postal address.

If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer.

If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request verbally.

A request must be directed to the Information Officer or any authorised persons.

The prescribed form must be sent to GWK via mail, facsimile or may be provided to the requester by GWK.

The requester must pay the prescribed fee, before any further processing can take place.

The form must be adequately completed, with sufficient information particularly so that the official of GWK can identify:

- From where and from whom the request is made;
- What record(s) are being requested;
- What the access fee will be should access be granted.

## **18 FEES**

The Act provides for two types of fees, namely:

- A request fee, which will be a standard fee; and
- An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.

When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing of the request.

If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the information officer shall notify the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.

The Information Officer shall withhold a record until the requester has paid the required fees.

A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.

If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer must repay the deposit to the requester.

## **19 DECISION**

GWK will, within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons to that effect.

The 30 day period within which GWK has to decide whether to grant or refuse the request, may be extended for a further period of not more than 30 days if the request

is for a large number of information, or the request requires a search for information held at another office of GWK and the information cannot reasonably be obtained within the original 30 day period. GWK will notify the requester in writing should an extension be sought.

## **20 GROUNDS FOR REFUSAL**

The main grounds for GWK to refuse a request for information relate to the –

- mandatory protection of privacy of a third party who is a natural person;
- mandatory protection of the commercial information of a third party;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreements;
- mandatory protection of the safety of individuals and protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- mandatory protection of the commercial activities of GWK;
- the research information of GWK or a third party, if its disclosure would disclose the identity of GWK, the researcher or the subject matter of the research and would place the research at a serious disadvantage; and
- requests for information that are clearly frivolous or which involve an unreasonable diversion of resources shall be refused.

## **21 PROTECTION OF PERSONAL INFORMATION BILL**

See GWK POPI Policy

## **22 AVAILABILITY OF THE MANUAL**

This manual is made available in terms of Regulation Number R187 of 15 February 2002 as amended by Regulation R1244 in GG 25411 of 22 September 2003.

The manual is available at the GWK (see Annexure A) and offices of the South African Human Rights Commission and shall be published in two of the official languages in the Government Gazette.

## **23 INFORMATION AS MAY BE PRESCRIBED UNDER SECTION 51(1)(F)**

The Protection of Personal Information Act will have a significant impact on the way in which organisations collect, store, process, and disseminate information from and to clients and employees. The purpose of this Bill is to promote the protection of

personal information which is processed by public and private bodies and to establish protection principles regarding the processing of the personal information.

Eight conditions have been established to ensure lawful processing of personal information:

1. Accountability
2. Processing limitation
3. Purpose specification
4. Further processing limitation
5. Information quality
6. Openness
7. Security Safeguards
8. Data subject participation

The legislation provides for certain instances where personal information may be processed:

if a specific and explicitly defined purpose is given which is adequate, relevant and not excessive and voluntary consent is given by the subject. This means that the subject must be fully aware of the reason why the personal information is required.

For more information refer to the Chief Information Officer.

The Minister of Justice and Constitutional Development of the Republic of South Africa has not made any regulations in this regard.

## **24 INFORMATION REQUIRED IN TERMS OF SECTION 52 (2)**

The Minister of Justice and Constitutional Development of the Republic of South Africa has not made any regulations in this regard.

## **25 RECORDS THAT CANNOT BE FOUND**

If GWK searches for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try to locate the record.

## **26 THE PRESCRIBED FORMS AND FEES**

The prescribed forms and fees are available on the website of the Department of Justice and Constitutional Development at [www.doj.gov.za](http://www.doj.gov.za) under the regulations section.

## 27. REVISION HISTORY

Date of Change/Update	Responsible signature	Summary of Change/Update
23 December 2015		PAIA Manual

## GWK LTD: POLICY ON THE RETENTION & CONFIDENTIALITY OF DOCUMENTS, INFORMATION AND ELECTRONIC TRANSACTIONS

### 1. PURPOSE

1.1 To exercise effective control over the retention of documents and electronic transactions:

1.1.1. as prescribed by legislation; and

1.1.2. as dictated by business practice.

1.2 Documents need to be retained in order to prove the existence of facts and to exercise rights the Company may have. They are also necessary for defending legal action. For establishing what was said or done in relation to business of the Company and to minimize the Company's reputational risks.

1.3 To ensure that the Company's interests are protected and that the Company's and clients' rights to privacy and confidentiality are not breached.

1.4 Queries may be referred to the Company Secretary.

### 2. SCOPE & DEFINITIONS

2.1 All documents and electronic transactions generated within and/or received by the Company.

2.2 Definitions:

2.2.1 Clients includes, but are not limited to, shareholders, debtors, creditors as well as the affected personnel and/or departments related to a service division of the Company.

2.2.2 Confidential Information means all information or data disclosed to or obtained by the Company by any means whatsoever and shall include, but not be limited to:

2.2.2.1 financial information and records; and



2.2.2.2 all other information including information relating to the structure, operations, processes, intentions, product information, know-how, trade secrets, market opportunities, customers and business affairs, but excluding the exceptions listed in clause 4.1 hereunder.

2.2.3 Constitution: Constitution of the Republic of South Africa Act, 108 of 1996.

2.2.4 Data means electronic representations of information in any form.

2.2.5 Documents include books, records, security or accounts and any information that has been stored or recorded electronically, photographically, magnetically, mechanically, electro-mechanically or optically, or in any other form.

2.2.6 ECTA: Electronic Communications and Transactions Act, 25 of 2002.

2.2.7 Electronic communication means a communication by means of data messages.

2.2.8 Electronic signature means data attached to, incorporated in, or logically associated with other data and which is intended by the user to serve as a signature.

2.2.9 Electronic transactions include e-mails sent and received.

2.2.10 PAIA: Promotion of Access to Information Act, 2 of 2000.

### **3. CONTENTS**

See Annexure "A" attached hereto.

### **4. ACCESS TO DOCUMENTS**

4.1 All Company and client information must be dealt with in the strictest confidence and may only be disclosed, without fear of redress, in the following circumstances (also see clause 4.2 below):

4.1.1 where disclosure is under compulsion of law;

4.1.2 where there is a duty to the public to disclose;

4.1.3 where the interests of the Company require disclosure; and

4.1.4 where disclosure is made with the express or implied consent of the client.

4.2 Disclosure to 3rd parties:

All employees have a duty of confidentiality in relation to the Company and clients. In addition to the provisions of clause 4.1 above, the following are also applicable:

4.2.1 Information on clients: Our clients' right to confidentiality are protected in the Constitution and in terms of ECTA. Information may be given to a 3rd party if the client has consented in writing to that person receiving the information.

#### 4.2.2 Requests for company information:

4.2.2.1 These are dealt with in terms of PAIA, which gives effect to the constitutional right of access to information held by the State or any person (natural and juristic) that is required for the exercise or protection of rights. Private bodies, like the Company, must however refuse access to records if disclosure would constitute an action for breach of the duty of secrecy owed to a third party.

4.2.2.2 In terms hereof, requests must be made in writing on the prescribed form to the Company Secretary, who is also the Information Officer in terms of PAIA. The requesting party has to state the reason for wanting the information and has to pay a prescribed fee.

4.2.2.3 The Company's manual in terms of PAIA, which contains the prescribed forms and details of prescribed fees, is available on the intranet and the GWK website.

4.2.3 Confidential company and/or business information may not be disclosed to third parties as this could constitute industrial espionage. The affairs of the Company must be kept strictly confidential at all times.

4.3 The Company views any contravention of this policy very seriously and personnel who are guilty of contravening the policy will be subject to disciplinary procedures, which may lead to the dismissal of any guilty party.

## 5. STORAGE OF DOCUMENTS

### 5.1 HARD COPIES

5.1.1 Documents are stored in the archive at Safe storage, which is located at Head Office.

5.1.2. All documents stored are entered into the electronic filing system and requests for the retrieval of stored documents must be sent to Safe storage who will forward the necessary information. The document(s) received must be returned to Safe storage as soon as reasonably possible after use.

#### 5.1.3. Companies Act, No 71 of 2008

With regard to the Companies Act, No 71 of 2008 and the Companies Amendment Act No 3 of 2011, hardcopies of the documents mentioned below must be retained for 7 years:

- Any documents, accounts, books, writing, records or other information that a company is required to keep in terms of the Act;
- Notice and minutes of all shareholders meeting, including resolutions adopted and documents made available to holders of securities;
- Copies of reports presented at the annual general meeting of the company;

- Copies of annual financial statements required by the Act;
- Copies of accounting records as required by the Act;
- Record of directors and past directors, after the director has retired from the company;
- Written communication to holders of securities and
- Minutes and resolutions of directors' meetings, audit committee and directors' committees.

Copies of the documents mentioned below must be retained indefinitely:

- Registration certificate;
- Memorandum of Incorporation and alterations and amendments;
- Rules;
- Securities register and uncertified securities register;
- Register of company secretary and auditors and
- Regulated companies (companies to which chapter 5, part B, C and Takeover Regulations apply) – Register of disclosure of person who holds beneficial interest equal to or in excess of 5% of the securities of that class issued.

#### **5.1.4 Consumer Protection Act, No 68 of 2008**

The Consumer Protection Act seeks to promote fair, accessible and sustainable marketplace and therefore requires a retention period of 3 years for information provided to a consumer by an intermediary such as:

- Full names, physical address, postal address and contact details;
- ID number and registration number;
- Contact details of public officer in case of a juristic person;
- Service rendered;
- Intermediary fee;
- Cost to be recovered from the consumer;
- Frequency of accounting to the consumer;
- Amounts, sums, values, charges, fees, remuneration specified in monetary terms;
- Disclosure in writing of a conflict of interest by the intermediary in relevance to goods or service to be provided;
- Record of advice furnished to the consumer reflecting the basis on which the advice was given;

- Written instruction sent by the intermediary to the consumer;
- Conducting a promotional competition refer to Section 36(11)(b) and Regulation 11 of Promotional Competitions;
- Documents Section 45 and Regulation 31 for Auctions.

### **5.1.5 National Credit Act, No 34 of 2005**

The National Credit Act aims to promote a fair and transparent credit industry which implies the retention of certain documents for a specified period.

Retention for 3 years from the earliest of the dates of which the registrant created, signed or received the document or from the date of termination of the agreement or in the case of an application for credit that is refused or not granted for any reason, from the date of receipt of the application which applies to the documents mentioned below:

Regulation 55(1)(b):

- Records of registered activities such as an application for credit declined;
- Reason for the decline of the application for credit;
- Pre-agreement statements and quotes;
- Documentation in support of steps taken in terms of section 81(2) of the Act;
- Record of payments made;
- Documentation in support of steps taken after default by consumer.

Regulation 55(1)(c) in respect of operations:

- Record of income, expenses and cash flow;
- Credit transaction flows;
- Management accounts and financial statements.

Regulation 55(1)(d) with regard to the Credit Bureau:

- All documents relating to disputes, inclusive of but not limited to, documents from the consumer;
- Documents from the entity responsible for disputed information;
- Documents pertaining to the investigation of the dispute;
- Correspondence addressed to and received from sources of information as set out in section 70(2) of the Act and Regulation 18(7) pertaining to the issues of the disputed information.

Regulation 55(1)(a) with regard to Debt Counsellors:

- Application for debt review;
- Copies of all documents submitted by the consumer;
- Copy of rejection letter;
- Debt restructuring proposal;
- Copy of any order made by the tribunal and/or the court and a copy of the clearance certificate.

Regulation 56 with regard to section 170 of the Act:

- Application for credit;
- Credit agreement entered into with the consumer.

Regulation 17(1) with regard to Credit Bureau information:

Documents with a required retention period of the earlier of 10 years or a rehabilitation order being granted:

- Sequestrations
- Administration orders.

Documents with a required retention period of 5 years:

- Rehabilitation orders
- Payment profile.

Documents with a required retention period of the earlier of 5 years or until judgment is rescinded by a court or abandoned by the credit provider in terms of section 86 of the Magistrate's Court Act No 32 of 1944:

- Civil Court Judgments

Documents with a required retention period of 2 years:

- Enquiries.

Documents with a required retention period of 1.5 years:

- Details and results of disputes lodged by the consumers.

Documents with a required retention period of 1 year:

- Adverse information.

Documents with an unlimited required retention period:

- Liquidation.

Documents required to be retained until a clearance certificate is issued:

- Debt restructuring.

### **5.1.6 Financial Advisory and Intermediary Services Act, No 37 of 2002**

Section 18 of the Act requires a retention period of 5 years, except to the extent that it is exempted by the registrar for the below mentioned documents:

- Known premature cancellations of transactions or financial products of the provider by clients;
- Complaints received together with an indication whether or not any such complaint has been resolved;
- The continued compliance with this Act and the reasons for such non-compliance;
- And the continued compliance by representatives with the requirements referred to in section 13(1) and (2).

The General Code of Conduct for Authorized Financial Services Provider and Representatives requires a retention period of 5 years for the below mentioned documents:

- Proper procedures to record verbal and written communications relating to a financial service rendered to a client as are contemplated in the Act, this Code or any other Code drafted in terms of section 15 of the Act;
- Store and retrieve such records and any other material documentation relating to the client or financial services rendered to the client;
- And keep such client records and documentation safe from destruction;
- All such records must be kept for a period after termination to the knowledge of the provider of the product concerned or in any other case after the rendering of the financial service concerned.

### **5.1.7 Financial Intelligence Centre Act, No 38 of 2001**

Section 22 and 23 of the Act require a retention period of 5 years for the documents and records of the activities mentioned below:

- Whenever an accountable transaction is concluded with a client, the institution must keep record of the identity of the client;
- If the client is acting on behalf of another person, the identity of the person on whose behalf the client is acting and the clients authority to act on behalf of that other person;
- If another person is acting on behalf of the client, the identity of that person and that other person's authority to act on behalf of the client;
- The manner in which the identity of the persons referred to above was established;
- The nature of that business relationship or transaction;

- In the case of a transaction, the amount involved and the parties to that transaction;
- All accounts that are involved in the transactions concluded by that accountable institution in the course of that business relationship and that single transaction;
- The name of the person who obtained the identity of the person transacting on behalf of the accountable institution;
- Any document or copy of a document obtained by the accountable institution.

These documents may also be kept in electronic format.

### **5.1.8 Compensation for Occupational Injuries and Diseases Act, No 130 of 1993**

Section 81(1) and (2) of the Compensation for Occupational Injuries and Diseases Act requires a retention period of 4 years for the documents mentioned below:

- Register, record or reproduction of the earnings, time worked, payment for piece work and overtime and other prescribed particulars of all the employees.

Section 20(2) documents with a required retention period of 3 years:

- Health and safety committee recommendations made to an employer in terms of issues affecting the health of employees and of any report made to an inspector in terms of the recommendation.

- Records of incidents reported at work.

Asbestos Regulations, 2001, regulation 16(1) requires a retention period of minimum 40 years for the documents mentioned below:

- Records of assessment and air monitoring, and the asbestos inventory;
- Medical surveillance records;

Hazardous Biological Agents Regulations, 2001, Regulations 9(1) and (2):

- Records of risk assessments and air monitoring.
- Medical surveillance records.

Lead Regulations, 2001, Regulation 10:

- Records of assessments and air monitoring;
- Medical surveillance records.

Noise - induced Hearing Loss Regulations, 2003, Regulation 11:

- All records of assessment and noise monitoring;
- All medical surveillance records, including the baseline audiogram of every employee.

Hazardous Chemical Substance Regulations, 1995, Regulation 9 requires a retention period of 30 years for the documents mentioned below:

- Records of assessments and air monitoring;
- Medical surveillance records.

#### **5.1.9 Basic Conditions of Employment Act, No 75 of 1997:**

The Basic Conditions of Employment Act requires a retention period of 3 years for the documents mentioned below:

Section 29(4):

- Written particulars of an employee after termination of employment;

Section 31:

- Employee's name and occupation;
- Time worked by each employee;
- Remuneration paid to each employee;
- Date of birth of any employee under the age of 18 years.

#### **5.1.10 Employment Equity Act, No 55 of 1998:**

Section 26 and the General Administrative Regulations, 2009, Regulation 3(2) requires a retention period of 3 years for the documents mentioned below:

- Records in respect of the company's workforce, employment equity plan and other records relevant to compliance with the Act;

Section 21 and Regulations 4(10) and (11) require a retention period of 3 years for the report which is sent to the Director General as indicated in the Act.

#### **5.1.11 Labour Relations Act, No 66 of 1995:**

Sections 53(4), 98(4) and 99 require a retention period of 3 years for the documents mentioned below:

- The Bargaining Council must retain books of account, supporting vouchers, income and expenditure statements, balance sheets, auditor's reports and minutes of the meetings;
- Registered Trade Unions and registered employer's organizations must retain books of account, supporting vouchers, records of subscriptions or levies paid by its members, income and expenditure statements, balance sheets, auditor's reports and minutes of the meetings;



- Registered Trade Unions and employer's organizations must retain the ballot papers;
- Records to be retained by the employer are the collective agreements and arbitration awards.

Sections 99, 205(3), Schedule 8 of Section 5 and Schedule 3 of Section 8(a) require an indefinite retention period for the documents mentioned below:

- Registered Trade Unions and registered employer's organizations must retain a list of its members;
- An employer must retain prescribed details of any strike, lock-out or protest action involving its employees;
- Records of each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer and the reasons for the actions;
- The Commission must retain books of accounts, records of income and expenditure, assets and liabilities.

**5.1.12 Unemployment Insurance Act, No 63 of 2002:**

The Unemployment Insurance Act, applies to all employees and employers except:

- Workers working less than 24 hours per month;
- Learners;
- Public servants;
- Foreigners working on a contract basis;
- Workers who get a monthly State (old age) pension;
- Workers who only earn commission.

Section 56(2)(c) requires a retention period of 5 years, from the date of submission, for the documents mentioned below:

- Employers must retain personal records of each of their current employees in terms of their names, identification number, monthly remuneration and address where the employee is employed.

**5.1.13 Tax Administration Act, No 28 of 2011:**

Section 29 of the Tax Administration Act, states that records of documents must be retained to:

- Enable a person to observe the requirements of the Act;
- Are specifically required under a Tax Act by the Commissioner by the public notice;
- Will enable the SARS to be satisfied that the person has observed these requirements.

Section 29(3)(a) requires a retention period of 5 years, from the date of submission for taxpayers that have submitted a return and an indefinite retention period, until the return is submitted, then a 5 year period applies for taxpayers who were meant to submit a return, but have not.

Section 29(3)(b) requires a retention period of 5 years from the end of the relevant tax period for taxpayers who were not required to submit a return, but had capital gains/losses or engaged in any other activity that is subject to tax or would be subject to tax but for the application of a threshold or exemption.

Section 32(a) and (b) require a retention period of 5 years but records must be retained until the audit is concluded or the assessment or decision becomes final, for documents indicating that a person has been notified or is aware that the records are subject to an audit or investigation and the person who has lodged an objection or appeal against an assessment or decision under the TAA.

#### **5.1.14 Income Tax Act, No 58 of 1962:**

Schedule 4, paragraph 14(1)(a)-(d) of the Income Tax Act requires a retention period of 5 years from the date of submission for documents pertaining to each employee that the employer shall keep:

- Amount of remuneration paid or due by him to the employee;
- The amount of employee's tax deducted or withheld from the remuneration paid or due;
- The income tax reference number of that employee;
- Any further prescribed information;
- Employer Reconciliation return.

Schedule 6, paragraph 14(a)-(d) requires a retention period of 5 years from the date of submission or 5 years from the end of the relevant tax year, depending on the type of transaction for documents pertaining to:

- Amounts received by that registered micro business during a year of assessment;
- Dividends declared by that registered micro business during a year of assessment;
- Each asset as at the end of a year of assessment with cost price of more than R 10 000;
- Each liability as at the end of a year of assessment that exceeded R 10 000.

### **5.1.15 Value Added Tax Act, No 89 of 1991:**

Section 15(9), 16(2) and 55(1)(a) of the Value Added Tax Act and Interpretation Note 31, 30 March requires a retention period of 5 years from the date of submission of the return for the documents mentioned below:

- Where a vendor's basis of accounting is changed the vendor shall prepare lists of debtors and creditors showing the amounts owing to the creditors at the end of the tax period immediately preceding the changeover period;
- Importation of goods, bill of entry, other documents prescribed by the Custom and Excise Act and proof that the VAT charge has been paid to SARS;
- Vendors are obliged to retain records of all goods and services, rate of tax applicable to the supply, list of suppliers or agents, invoices and tax invoices, credit and debit notes, bank statements, deposit slips, stock lists and paid cheques;
- Documentary proof substantiating the zero rating of supplies;
- Where a tax invoice, credit or debit note, has been issued in relation to a supply by an agent or a bill of entry as described in the Customs and Excise Act, the agent shall maintain sufficient records to enable the name, address and VAT registration number of the principal to be ascertained.

### **5.2 Electronic Storage**

5.2.1 The internal procedure requires that electronic storage of information: important documents and information must be referred to and discussed with IT who will arrange for the indexing, storage and retrieval thereof. This will be done in conjunction with the departments concerned.

5.2.2 Scanned documents: If documents are scanned, the hard copy must be retained for as long as the information is used or for 1 year after the date of scanning, with the exception of documents pertaining to personnel. Any document containing information on the written particulars of an employee, including: employee's name and occupation, time worked by each employee, remuneration and date of birth of an employee under the age of 18 years; must be retained for a period of 3 years after termination of employment.

5.2.3 Section 51 of the Electronic Communications Act No 25 of 2005 requires that personal information and the purpose for which the data was collected must be kept by the person who electronically requests, collects, collates, processes or stores the information and a record of any third party to whom the information was disclosed must be retained for a period of 1 year or for as long as the information is used.

It is also required that all personal information which has become obsolete must be destroyed.

## 6. DESTRUCTION OF DOCUMENTS

6.1 Documents may be destroyed after the termination of the retention period specified in point 5 hereto. Information Officer will request departments to attend to the destruction of their documents and these requests shall be attended to as soon as possible.

6.2 Each department is responsible for attending to the destruction of its documents, which must be done on a regular basis. Files must be checked in order to make sure that they may be destroyed and also to ascertain if there are important original documents in the file. Original documents must be returned to the holder thereof, failing which, they should be retained by the Company pending such return.

6.3 After completion of the process in 6.2 above, the General Manager of the department shall, in writing, authorise the removal and destruction of the documents in the authorisation document. These records will be retained by Information Officer.

6.4 The documents are then made available for collection by the removers of the Company's documents, who also ensure that the documents are shredded before disposal. This also helps to ensure confidentiality of information.

6.5 Documents may also be stored off-site, in storage facilities approved by the Company.

## 7. SOURCES

7.1 SAICA Guidelines-Updated October 2013 (also refers to the Banks Act and Insolvency Act);

7.2. Companies Act, 61/1973;

7.3. Income Tax Act, 58/1962;

7.4. Financial Intelligence Centre Act, 38/2001;

7.5. ECTA, 25/2002;

7.6. RICA, 70/2002;

7.7. Second Hand Goods Act, 23/1955;

7.8. Firearms Control Act, 60/2000;

7.9. Basic Conditions of Employment Act, 75/1997;

7.10. Unemployment Insurance Act, 63/2001;

7.11. Unemployment Insurance Contributions Act, 4/2002;

7.12. National Credit Act, 34/2005;

7.13. Compensation for Occupational Injuries & Diseases Act, 130/1993;

7.14. Skills Development Levies Act, 9/1999;

- 7.15. Employment Equity Act, 55/1998;
- 7.16. Labour Relations Act, 66/1995;
- 7.17. Securities Services Act, 36/2004;
- 7.18. Value-Added Tax Act, 89/1991;
- 7.19. PRECCA, 12/2004;
- 7.20. PROCDATRA, 33/2004;
- 7.21. FAIS, 37/2002;
- 7.22. Prescription Act, 68/1969;
- 7.23. Safex Rules;
- 7.24. Legal advice (Juta);
- 7.25. Standard Practice (Juta); and
- 7.26. OHS Act, 85/1993.
- 7.27. Companies Amendment Act 3/2011;
- 7.28. Companies Regulations 2011;
- 7.29. Tax Administration Act, 28/2011;

**8. REVISION HISTORY**

Date of Change/Update	Responsible signature	Summary of Change/Update
23 December 2015		PAIA Manual



**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 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
Form in which record is required:	
Mark the appropriate box with an X.	
<p>NOTES:</p> <p>(a) Compliance with your request in the specified form may depend on the form in which the record is available.</p> <p>(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.</p> <p>(c) The fee payable for access for the record, if any, will be determined partly by the form in which access is requested.</p>	

<b>1. If the record is in written or printed form:</b>			
	copy of record*		inspection of record
<b>2. If record consists of visual images</b> this includes photographs, slides, video recordings, computer-generated images, sketches, etc)			
	view the images		copy of the images"
			transcription of the images*
<b>3. If record consists of recorded words or information which can be reproduced in sound:</b>			
	listen to the soundtrack audio cassette		transcription of soundtrack* written or printed document
<b>4. If record is held on computer or in an electronic or machine-readable form:</b>			
	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 of .....20.....

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



## REQUEST FEES

Section 54 of the Act entitles a Private Body to levy a prescribed request fee to a Requester before further processing the request. The fees that may be charged have been published by the Minister of Justice and Constitutional Development and are displayed below.

According to POPI a Requesting Person is entitled to levy a prescribed fee for the provision of Personal Information about the Data Subject in its possession.

<b>1. ACCESS FEES FOR REPRODUCTION</b>		
1.1	For every photocopy of an A4-size page or part thereof	R1.10
1.2	For every photocopy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75
1.3	For a copy in a computer-readable form on memory stick	R7.50
1.4	For a copy in a computer-readable form on compact disc	R70.00
1.5	For a transcription of visual images for an A4-size page or part thereof	R40.00
1.6	For a copy of visual images	R60.00
1.7	For a transcription of an audio record for an A4-size page or part thereof	R20.00
1.8	For a copy of an audio record	R30.00
<b>2. ACCESS FEE FOR TIME SPENT</b>		
2.1	The time reasonably required to search for the record for disclosure and preparation	R30.00/hr or part thereof
<b>3. REQUEST FEE</b>		
3.1	For a request for access to a record by a person other than a personal Requestor	R50.00
<b>4. DEPOSIT</b>		
4.1	One third of the access fee is payable as a deposit by the Requester	
<b>5. POSTAL FEE</b>		
5.1	When a copy of a record must be posted to the Requestor	R9.75
<b>6. APPEAL FEES</b>		
6.1	For lodging an internal appeal against the refusal of a request for access to a record	R50.00
<b>7. VAT</b>		
7.1	<b>GWK Ltd</b> , as a private body registered under the Value Added Tax Act, 1991 will add VAT to all the above-mentioned fees	