

FINTAX

Accounting Services & Tax Consultancy

Diane Farley Tax Consultants CC

Access to Information Manual

IN TERMS OF SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, NO 2 OF 2000 (PAIA) and the amendments as per the PROTECTION OF PERSONAL INFORMATION ACT, NO. 4 of 2013 (PoPIA)

IN RESPECT OF Diane Farley Tax Consultants CC CK2005/055480/23 AND ITS BRANDS (“FINTAX”)

Version 2.0

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Approved By: Diane Pardoe

VERSION CONTROL

VERSION	AMENDMENTS
1.0	(December 2011): Release of the Access to Information Manual
2.0	(June 2021): Update in consideration of the requirements of the Protection of Private Information Act

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1. Purpose

This Manual has been prepared in terms of section 51 of the Promotion of Access to Information Act 2 of 2000 (“PAIA”) and updated in the light of the Protection of Personal Information Act 4 of 2013 (“PoPIA”). The document:

- provides a non-exhaustive list of records held by FINtax
- regulates access to FINtax records
- regulates the release of such records

Overview of PAIA

Section 32 of the Constitution states: *“Everyone has a right of access to any information held by the state and any information held by another person that is required for the exercise or protection of any rights.”*

PAIA was enacted to give effect to that constitutional right of access to information. PAIA came into operation on 9 March 2001.

Where a request is made in terms of PAIA, the body to which the request is made is obliged to give access to the requested information, except where:

- the Act expressly provides that the information may or must not be released
- certain limitations to the right of access to information are reached: e.g. limitations aimed at the reasonable protection of privacy, commercial confidentiality, and effective, efficient and good governance

Overview of PoPIA

PoPIA was enacted in November 2013, to promote the protection of personal information processed by public and private bodies.

PoPIA amended certain provisions of PAIA, balancing the need for access to information and the need to ensure the protection of personal information. PoPIA also affords data subjects (juristic or natural persons) to have access to their personal information that is held by a responsible party.

2. Scope

This Manual pertains to records owned or otherwise under the control of Diane Farley Tax Consultants CC t/a FINtax CK2005/055480/23 (hereafter referred to as “FINtax”).

3. Information Manual

This Manual is available from the designated Information Officer, whose details appear in section [Contact Details](#) for public inspection:

- at the physical address of FINtax, free of charge
- on the FINtax website (www.fin-tax.co.za), free of charge
- on request by any person (along with payment of a prescribed fee)

As provided for in terms of section 51(2) of PAIA this Manual will be updated as and when needed and the latest version of the Manual will be made public through the FINtax web-site: www.fin-tax.co.za

4. Introduction to FINtax

FINtax offers a complete solution for all accounting, bookkeeping and tax consulting needs for business and individuals in South Africa and tax residents of South Africa residing elsewhere in the world. The business was formed in 2005.

FINtax is incorporated in South Africa and situated in Cape Town, South Africa.

The company is owned 100% by its founding member and the business is headed up by Diane Pardoe.

5. Contact Details

The member is the Information Officer. You should direct any requests to her at:

Name	Email Address	Telephone
Diane Pardoe	queries@fin-tax.co.za	021 782 5575

Web-site : <https://www.fin-tax.co.za>

Postal Address : PO Box 37759, Vallyland, 7978

Physical Address : Diane Farley Tax Consultants CC t/a FINtax CK2005/055480/23, First Floor, Room 102 Vallyland Centre, Upper Recreation Road, Fish Hoek, 7975

6. The ACT and Section 10 Guide

1. 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.
2. 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.
3. Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission (SAHRC), which will contain information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC:
www.sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf

The contact details of the Commission are:

Postal Address	Private Bag 2700, Houghton, 2041
Telephone Number	+27-11-877 3600
Fax Number	+27-11-403 0625
Website	www.sahrc.org.za

7. Applicable Legislation

No	Ref	Act	Relevant Records
1	No 61 of 1973	Companies Act	The Act requires all company documents and records to be kept in a written format. Companies are also expected to maintain memorandum of incorporation and a record of their directors.

2	No 98 of 1978	Copyright Act	The Act includes computer programs that have been created by South Africans or in South Africa as works eligible for copyright.
3	No 55 of 1998	Employment Equity Act	Employers are required to maintain records relating to the workforce, employment equity plans and other relevant records.
4	No 53 of 2003	Broad Based Black Economic Empowerment Act ("BBBEE")	The BBBEE Act has as one of its objectives the promotion of economic transformation in order to enable meaningful participation of black people in the mainstream economy. It is expected that companies should keep records of activities undertaken in order to promote economic transformation and meaningful participation of black people in the mainstream economy.
5	No 66 of 1995	Labour Relations Act	The Act requires employers to keep records of disciplinary transgressions against employees, actions taken and reasons for the action.
6	No 70 of 2002	Regulation of Interception of Communications and Provision of Communication Related Information (RICA)	<p>The Act requires the following information to be stored in respect of all customers:</p> <ul style="list-style-type: none"> Name, surname, ID number, MSISDN and one Address For businesses: name, registration number, business address, name and surname of business representative, his or her ID number as well as the address <p>The above information should be stored in a separate RICA database which complies with specific security requirements prescribed under the Act and is used only for RICA purposes.</p>
7	No 75 of 1997	Basic Conditions of Employment Act	The Act requires employers to keep records of information containing the personal details of all its employees, working times and remuneration package.
8	No 68 of 2008	Consumer Protection Act (CPA)	The Act applies to all transactions in South Africa and is aimed at promoting and protecting the economic interests of consumers. The Act however does not deal with consumer personal information nor impose obligations on businesses in respect of treatment and/or protection of such information.
9	No 25 of 2002	Electronic Communications and Transactions Act	The Act requires that information emanating from electronic transactions only be collected, collated, processed and disclosed with customer's consent. Further, the purpose for which information is collected must be disclosed to the customer and must only be used for that purpose unless customer consents otherwise.
10	No 2 of 2000	Promotion of Access of Information Act	PAIA effects the right of access to information. Where a request is made in terms of PAIA, the body to which the request is made is obliged to give access to the requested information, except where: the Act expressly provides that the information may or must not be released or if certain limitations to the right of access to information are reached: e.g. limitations aimed at the reasonable protection of privacy, commercial confidentiality, and effective, efficient and good governance.

11	No 30 of 1996	Unemployment Insurance Act	An Employer is expected to keep records relating to payment of contributions to the Unemployment Insurance Fund relating to: illness, maternity and for dependents. The Act does however, subject to the provisions of the Promotion of Access to Information Act, No. 2 of 2000, prohibits the disclosure of information obtained in the performance of functions under the Act.
12	No 4 of 2013	Protection of Personal Information Act (PoPIA)	PoPIA promotes the protection of personal information processed by public and private bodies. It affords Data Subjects the right to request access to their Personal Information that is processed by a Responsible Party.
13	No 36 of 2005	Electronic Communications Act	There are no specific requirements on the type of information to be retained. However it is expected that companies protect confidentiality of customer and to use it only for purpose authorized by the customer or in terms of the law.
14	No 34 of 2005	National Credit Act	A credit provider is expected to maintain records of all applications for credit, credit agreements and credit accounts in the prescribed manner and form and for the prescribed time.
15	No 85 of 1993	Occupational Health and Safety Act	Employers are required to keep records relating to the health and safety of persons in the workplace.
16	No 12 of 2004	Prevention and Combating of Corrupt Activities Act	The Act provides for the strengthening of measures to prevent and combat corruption and corrupt activities. To this end companies are expected to keep records relating to any offer of improper gratification relating to the procurement or execution of contracts or employment relationship.
17	No 9 of 1999	Skills Development Levies Act	Every employer is expected to make payments towards the skills development levy at a rate of 1% of the leviable amount. Records detailing payments made by the Employer are expected to be kept.

8. Schedule of Records

a. Voluntary disclosure and automatic availability of certain records

As per section 52 of the PAIA Act, FINtax has the following categories of records that are automatically available on the FINtax web site (www.fin-tax.co.za) without a person having to request access in terms of the PAIA Act:

Department	Category of Record 52(1a)
Marketing	Public Product Information Media Releases Advertisements and Promotions
Operations	Public Corporate Records (referral and resellers programmes) Company contact information
Human Resources	Jobs/Positions

b. Records available according to legislation

Records are available in terms of the legislation listed in section [Applicable Legislation](#).

c. Records that can be requested

As per section 51(1e) of the PAIA Act, the following are categories of records that can be requested in terms of PAIA (52(1b)) from FINtax as per the process described in [Form of Request](#).

Each request will be dealt on a case by case basis and the mere fact that a record is listed below does not mean that access to that record will be granted.

Department	Category of Record 52(1a)
Operations	Member's records Memorandum of Incorporation Organisational Structure Office Building Structures
Production	Trouble Tickets
Sales	Contracts / Agreements Templates
Development and IT	List of external applications External email correspondence
Compliance	Internal Policies & Procedures
Finance	Company Financial and Tax Records Management Accounts
Human resources	Job descriptions Curriculum Vitae records Employee Appointment Records

9. Form of Request

a. Request process

Any person may make a request for access to a record of FINtax. The following are required:

1. **Completed Form C** : A request must be made in writing on the prescribed Form C which is available on the website of the Information Regulator at www.justice.gov.za and is also attached here in **Appendix A**.

If a question does not apply "N/A" should be stated in response to that question. If there is nothing to disclose in reply to a particular question "Nil" should be stated in response to that question.

The request form must be addressed to the Information Officer using the contact details set out in clause [Contact Details](#) above.

2. **Proof of Identity** : The requestor must provide an acceptable proof of identity such as a certified copy of their Identity Document or other legal form of identification.
3. **Proof of Capacity** : If the request is made on behalf of another person, the Requestor must provide an Affidavit to prove the capacity in which the requestor is making the request.
4. **Proof of Payment** : The requestor must provide proof of payment of the prescribed fees (Refer to [Prescribed Fees](#)).

Requests which are not complete in full or are not accompanied by the above documents will be referred back to the requester. Should the requester fail to submit adequate documentation within 30 days after the request has been referred back to them, the request will be discarded.

b. Request outcome notification

If the **request for access is granted** then FINtax will advise the requestor within 30 days on the following:

1. The access fee to be paid upon access as well as the deposit and balance outstanding
2. The form in which access will be given
3. That the requester may lodge an application with a court against the access fee to be paid or the form of access granted, and the procedure, including the period allowed, for lodging the application.

If the **request for access is refused** then FINtax will advise the requestor within 30 days on the following:

1. The reasons for refusal of access. Such reasons according to Chapter 4 of Part 3 of the Act could be protection of:
 - a. privacy of third party who is natural person
 - b. commercial information of third party
 - c. certain confidential information of third party
 - d. safety of individuals, and protection of property
 - e. records privileged from production in legal proceedings
 - f. commercial information of FINtax
 - g. research information of a third part or of FINtax
2. State that the requester may lodge an application with the Information Regulator or a Magistrate's court against the refusal of the request, and the procedure (including the period) for lodging the application. The Information Regulator will investigate the complaint and reach a decision - which may include a decision to investigate, to take no further action or to refer the complaint to the Enforcement Committee established in terms of PoPIA. The Information Regulator may serve an enforcement notice confirming, amending or setting aside the impugned decision, which must be accompanied by reasons.

10. Prescribed Fees

Section 54 of the Act entitles a Private Body to levy a prescribed request fee to a Requester before further processing of the request. The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at www.sahrc.org.za and is also attached here in **Appendix B** .

The following applies to requests:

1. A requestor (other than a personal Requestor) is required to pay the prescribed fees (R50.00) before a request is processed.
2. If the Information Officer deems that the preparation of the record requested requires more than the prescribed hours (six), the requestor will need to pay a deposit. The deposit is equal to one third of the access fee.
3. Records may be withheld until the fees have been paid.

11. Personal Information Concerns

Matters related to FINtax handling privacy (transborder transfers and processing of information, information security measures, etc.) are covered in our FINtax Privacy Notice. The notice is available in our fin-tax.co.za website.

Appendix A: Form C

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 the Private Body

The Information Officer/Deputy Information Officer:

Name	Email Address	Telephone
Diane Pardoe	queries@fin-tax.co.za	021 782 5575

Web-site : <https://www.fin-tax.co.za>

Postal Address : PO Box 37759, Vallyland, 7978

Physical Address : Diane Farley Tax Consultants CC t/a FINtax CK2005/055480/23, First Floor, Room 102 Vallyland Centre, Upper Recreation Road, Fish Hoek, 7975

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 below, state your disability and indicate in which form the record is required.

Disability: _____	Form in which record is required :	
Mark the appropriate box with an X. NOTES: (a) Compliance with your request for access 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	
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 of the images*	<input type="checkbox"/> 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
Note that <i>if</i> the record is not available in the language you prefer, access may <i>be granted</i> in the language in <i>which</i> the record is available.			
In which language would you prefer the record?			

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 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 thisday of.....20...

SIGNATURE OF REQUESTER 1 PERSON ON
 WHOSE BEHALF REQUEST IS MADE

Appendix B: Fee structure

The fees for private bodies as referred to in section 52(3), 54(1) and 54(7) of the Act are prescribed in Items 2, 3 and 4 respectively of Part III of Annexure A.

In addition to the below fees, the following apply:

- **Appeals** : Should the requestor lodge an appeal to a refusal for access to information, the fees payable are the same as if a new request was lodged.
- **VAT** : FINtax is registered under the Value Added Tax Act, 1991 and will add VAT to all the abovementioned fees.
- **Postal fees** : Postal fees are charged at cost. FINtax uses The Courier Guy for postal services.

PART III

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 in Rands for the **reproduction** referred to in regulation 11(1) are as follows:
 - 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. stifty 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) is R50, 00.
4. The **access fees** payable by a requester referred to in regulation 11(3) are as follows:
 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. stifty disc 7, 50
 - ii. compact disc 70, 00
 - d.
 - i. For a transcription of visual images, for an A4-size page or part thereof 40, 00
 - ii. For a copy of visual images 60, 00
 - e.
 - i. For a transcription of an audio record, for an A4-size page or part thereof 20, 00
 - ii. For a copy of an audio record 30, 00

- f. To search for and prepare the record for disclosure, R30, 00 for each hour or part of an hour reasonably required for such search and preparation.
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.