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**PAIA Manual**  
in terms of  
**Section 51 of**  
**The Promotion of Access**  
**to Information Act**  
**2/2000**  
**(the "ACT")**

Version 1

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# 1. INTRODUCTION

The Promotion of Access to Information Act was promulgated in March 2001. The Act was put in place to actively promote a society in which the people of South Africa have effective access to information, which enables them to more fully exercise and protect their rights.

The Human Rights Commission is responsible for compiling a guide that provides details on how to use the Act. This guide is currently not available from the Human Rights Commission. Please direct any further queries in this regard to:

**The South African Human Rights Commission:**

**PAIA Unit**

**The Research and Documentation Department**

**Postal Address:** Private Bag 2700, Houghton, 2041

**Phone:** +27 (0) 11 484 8300

**Fax:** +27 (0) 11 484 0582

**Email:** PAIA@zahrc.org.za

**Website:** www.sahrc.org.za

In terms of Section 51(1) of the Promotion of Access to Information Act, all heads of private bodies are required to compile a manual that provides information regarding the subjects and categories of records held by such private bodies. This manual is intended to fulfil this requirement.

Accordingly, this manual provides a reference to the records we hold and the process that needs to be adopted to access such records. All requests for access to information should be addressed to the contact person as identified in section 3 of this manual, as he/she is our designated Information Officer.

A copy of the manual will be available for inspection at:

- Our head office (refer address below) and
- The South African Human Rights Commission.

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## 2. COMPANY OVERVIEW AND SCOPE OF THIS MANUAL

OTAP is the brand name for Overseas Trust and Pension Limited, offering trust and pension solutions. We are an Authorized Service Provider in terms of the Financial Advisory & Intermediary Service Act.

Our FSP licence number is FSP 47261.

The scope of this manual is limited to information held by OTAP.

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### 3. COMPANY CONTACT DETAILS (SECTION 51 (1) (A))

Directors:

- Mr Bob Banfield (Managing)
- Mr David Higgins
- Mr Rex Cowley
- Mr Paul Guillou (Finance)

The Directors of OTAP have duly authorised the contact person below to ensure the requirements of the Act are administered in a fair, objective and unbiased manner. Accordingly, all requests for access to records should be addressed to:

Compliance Officer: Ms Candice Price - CPrac (SA) ICCP (FSCA 7271)

Postal Address: First Floor, 162 Main Road, Somerset West, Western Cape, 7130

Street Address: First Floor, 162 Main Road, Somerset West, Western Cape, 7130

Telephone Number: +27 (0) 21 851 5584

Email: [candice.price@trustandpension.com](mailto:candice.price@trustandpension.com)

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### 4. THE ACT

The Managing Director of OTAP has duly authorized the contact person below to ensure that the requirements of the Act are administered in a fair, objective and unbiased manner. Accordingly, all requests for access to records should be addressed to the Compliance Officer listed in Section 3 of this manual:

4.1 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.

4.2 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.

4.3 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 (0) 11 877 3600

**Fax Number:** +27 (0) 11 403 0625

**Website:** [www.sahrc.org.za](http://www.sahrc.org.za)

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## 5. APPLICABLE LEGISLATION

We do not hold any information that is available for general public access. However, in terms of the following Acts, we are required to ensure that certain categories of records are available for access as prescribed by each Act:

- Financial Advisory and Intermediary Services Act No 37 of 2002;
- Promotion of Access to Information Act No 2 of 2000;
- Protection of Personal Information Act No 4 of 2013
- Financial Intelligence Centre Act No 38 of 2001;
- Pension Funds Act No 24 of 1956
- The Occupational Health and Safety Act No. 85 of 1993;
- Income Tax Act No. 58 of 1962;
- Companies Act No. 61 of 1973;
- Basic Conditions of Employment Act No. 75 of 1997;
- Employment Equity Act No. 55 of 1998;
- Labour Relations Act No. 66 of 1995;
- The Compensation for Occupational Injuries and Diseases Act No. 130 of 1993;
- The Health Act No. 63 of 1977;
- Consumer Affairs (Unfair Business Practices Act), 71 of 1988
- South African Revenue Services Act, 34 of 1997

Notification of the availability of these records in terms of these Acts has not yet been given to the Cabinet Minister of Justice.

Please note that while we have made every effort to identify all pertinent legislation, we cannot guarantee that all legislation has been included. Should you be aware of any specific legislation that should be included, and which has been omitted, please contact our Compliance Officer. Your assistance in this regard will be most appreciated.

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## 6. CATEGORIES OF RECORDS

Our records can be found in various forms including electronic and paper. In terms of the Promotion of Access to Information Act access must be granted irrespective of form or medium.

To facilitate the easy identification of the records we hold, we have categorised our records per subject area. The table below provides an indication of the subjects of information that we hold and the corresponding categories:

### FINANCE:

- Audited Financial Statements
- Tax records (relating to the company and individual employees)
- Asset register
- General correspondence
- Management accounts and records
- Budgets
- Financial transactions
- Banking records
- Contracts
- Financial policies and procedures
- Risk Management records
- Statutory Returns records
- Cash Flow forecasts
- Shareholder registers

#### **INFORMATION TECHNOLOGY:**

- IT Policies and procedures
- Network diagrams
- Configuration setups
- User manuals
- Asset register – IT related equipment
- General correspondence

#### **HUMAN RESOURCES:**

- Employee records
- Employment contracts
- Personnel guidelines, policies and procedures
- General correspondence
- Employment Equity records
- Provident Fund records
- Employee Benefit records
- Labour Relations records
- Statutory Labour related records
- Employee training records

#### **INVESTMENTS/CLIENT CENTRE:**

- Regulation/Compliance records
- Client due diligence including applications
- Client contact information
- Introducer's contact information
- Introducing and UBO due diligence

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## **7. FORM OF REQUEST (SECTION 51 (1) (E))**

A request for access to a record that does not fall within the categories identified in Section 5 of this manual must be done formally either via conventional mail or e-mail.

This request should be in the prescribed format as defined in Form C of Annexure B as identified in Government Notice Number 187, Regulation 6. A request form is also available from our offices. The prescribed request fee should be attached (refer to section 9 of this manual for more details on the fees).

Our Compliance Officer will respond to your request within 30 days of receiving the request by indicating whether your request for access has been granted.

Please note that an application for access for information can be refused in the event that the application does not comply with the procedural requirements of the Act. In addition, the successful completion and submission of an access request form does not automatically allow the requestor access to the requested record.

The request form must be completed CLEARLY and COMPLETELY in block letters. If there is insufficient space on the printed request form in which to answer a question, additional information must be provided on a separate page that is clearly marked and referenced.

**If access to a record/information is granted our response will include:**

- An indication of the access fee that should be paid upon gaining access (if any):

- An indication of the form in which the access will be granted:
- A notice that you may lodge an application with the court against the access fee to be paid or the form of the access, including guidance on the procedure on the procedure for lodging the application.

**If access to a record/information is denied our response will include:**

- Adequate reason for the refusal: and
- Notice that you may lodge an application with the court against the extension and the procedure including the period, for lodging the application. For details on the procedure, please refer to Chapter 2 of Part 4 of the Promotion of Access to Information Act.

Assuming your request of access is granted, you will be able to gain access to the requested records as soon as is reasonably possible and once the access fee has been paid.

**Access will be granted to a record if the following criteria are fulfilled:**

- The record is required for the exercise or protection of any right:
- The requestor complies with the procedural requirements of the Act relating to a request: and,
- Access to the records is not refused in terms of any ground for refusal as contemplated in Chapter 4 of Part 3 of the Act.

If you request access to a record that contains information about a third party, we are obliged to attempt to contact this third party to inform them of the request and to give them an opportunity to respond by either consenting to the access or by providing reasons why the access should be denied. In the event that the third party furnishes reasons for the support or denial of access, our designated Information Officer will consider these reasons in determining whether access should be granted. You may appeal against a refusal of access by our Information Officer. Please refer to Part 4 of the Promotion of Access to Information Act for further details on the Appeal Process

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## 8. DENIAL OF ACCESS

**Access may be refused under limited circumstances including:**

- Protecting personal information that we hold about a third person from unreasonable disclosure;
- Protecting commercial information that we hold about a third party (for example trade secrets: financial, commercial, scientific or technical information that may harm the commercial or financial interests of a third party);
- If disclosure would result in a breach of a duty of confidence owed to a third party;
- If disclosure would jeopardize the safety or life of an individual;
- If disclosure would prejudice or impair the security of property or means of transport;
- If disclosure would prejudice or impair the protection of a person in accordance with a witness protection scheme;
- If disclosure would prejudice or impair the protection of the safety of the public;
- The record is privileged from production in legal proceedings unless the privilege has been waived;
- Disclosure of the record will put OTAP at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- Disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of OTAP; and
- Records containing information about research being carried out or about to be carried out on behalf of a third party or OTAP.

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## 9. PRESCRIBED FEES

There are two basic types of fees applicable in terms of the Promotion of Access to Information Act – “request” and “access” fees. The non-refundable request fee (currently R 57.00 inclusive of VAT) is payable on submission of the request for access to a record (unless the request is personal in which event there is no applicable fee) and the access fee is payable prior to the actual gaining of access to the records in the required form. The applicable fees are prescribed in terms of Part III of Annexure A as identified in Government Notice Number 187, Regulation 11.

9.1 A requestor is required to pay the prescribed fees (R57.00) before a request will be processed;

9.2 If the preparation of the record requested requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted);

9.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;

9.4 Records may be withheld until the fees have been paid.

9.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

### SOUTH AFRICAN HUMAN RIGHTS DISCLAIMER

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- The SAHRC does not endorse any third party private service provider and will not bear any costs related to your transaction to compile the manual on your behalf.
- Submission to the SAHRC is free and the SAHRC does not charge any fees for advise or administration however all cost to lodge manuals is at the relevant private entities own cost e.g. registered mail etc.
- Manuals are subject to review and comment with the possibility of manuals being rejected on the basis of not meeting the minimum requirements and the SAHRC is not liable for the amendment costs if any and resubmission if any of any manuals.

DATE OF COMPILATION: 01/04/2021

DATE OF REVISION: 01/04/2022