

**PROMOTION OF ACCESS TO INFORMATION ACT
SECTION 51 MANUAL**

TABLE OF CONTENTS

1	DEFINITIONS	2
2	INTRODUCTION.....	4
3	AVAILABILITY OF THIS MANUAL.....	4
4	HOW TO REQUEST ACCESS TO RECORDS HELD BY THE COMPANY?.....	5
5	VOLUNTARY DISCLOSURE & PUBLIC RECORDS	7
6	RECORDS AVAILABLE IN ACCORDANCE WITH LEGISLATION.....	7
7	RECORDS HELD BY THE COMPANY AND AVAILABLE ONLY ON REQUEST.....	8
8	GROUND FOR REFUSAL OF ACCESS TO RECORDS	10
9	REMEDIES AVAILABLE IN REFUSAL OF A REQUEST FOR INFORMATION	11
10	PROCESSING OF PERSONAL INFORMATION.....	11

ANNEXURES

Annexure A	FORM C – REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
Annexure B	PRESCRIBED FEES IN RESPECT OF PRIVATE BODIES

Date	Version Reference	Approved By
	1	

1 DEFINITIONS

1.1 In this Manual, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings —

1.1.1 **“Data Subject”** means the person to whom the Personal Information relates;

1.1.2 **“Company”** means the Energy Exchange of Southern Africa (Pty) Ltd, registration number 2017/220907/07;

1.1.3 **“Information Officer”** means the person acting on behalf of the Company and discharging the duties and responsibilities assigned to the “head” of the Company in terms of PAIA. The Information Officer is duly authorised to act as required and such authorisation has been confirmed by the “head” of the Company in writing;

1.1.4 **“Manual”** means this manual published in compliance with section 51 of PAIA;

1.1.5 **“PAIA”** means the Promotion of Access to Information Act, No. 2 of 2000, as amended from time to time;

1.1.6 **“Personal Information”** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to –

1.1.6.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, wellbeing, disability, religion, conscience, belief, culture, language and birth of the person;

1.1.6.2 information relating to the education or the medical, financial, criminal or employment history of the person;

1.1.6.3 any identifying number, symbol, email address, physical address, telephone number, location information, any online identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person;

1.1.6.4 the biometric information of the person;

- 1.1.6.5 the personal opinions, views or preferences of the person;
- 1.1.6.6 correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- 1.1.6.7 the views or opinions of another individual about the person; and
- 1.1.6.8 the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;
- 1.1.7 **“Personnel”** means a person who works for or provides services to or on behalf of the Company and receives or is entitled to receive any remuneration. This includes, without limitation, directors (both executive and non-executive), all permanent, temporary and part-time staff as well as contract workers, shareholders, employees (full-time, part-time or casual), consultants, interns, and ex-employees;
- 1.1.8 **“Record”** means any recorded information, regardless of form or medium, which is in the possession or under the control of the Company, irrespective of whether it was created by the Company;
- 1.1.9 **“Request”** means a request for access to a record of the Company;
- 1.1.10 **“Requester”** means any person, including a public body or a private body or an official thereof, making a request for access to a record of the Company and includes any person acting on behalf of that person;
- 1.1.11 **“SAHRC”** means the South African Human Rights Commission.
- 1.1.12 **“Special Personal Information”** means –
 - 1.1.12.1 the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a Data Subject; or
 - 1.1.12.2 the criminal behaviour of a Data Subject to the extent that such information relates to –
 - 1.1.12.2.1 the alleged commission by the Data Subject of any offence; or
 - 1.1.12.2.2 any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings.
- 1.2 Terms not defined in this Manual shall have the meaning as defined in PAIA.

2 INTRODUCTION

- 2.1 This Promotion of Access to Information Manual is published in terms of section 51 of PAIA. PAIA gives effect to the provisions of section 32 of the Constitution, which provides for the right of access to information, held by either the state or private persons, that is required for the exercise and/or protection of any right.
- 2.2 This Manual provides an outline of the type of records and the personal information it holds and explains how to submit requests for access to these records in terms of PAIA.
- 2.3 This Manual applies in respect of the Company. The Information Officer named in paragraph 3.4 below is appointed in respect of the Company.
- 2.4 Only requests for records of the Company are covered by the Manual and requests for records of, or information relating to, other entities will not be considered.

3 AVAILABILITY OF THIS MANUAL

- 3.1 A copy of this Manual is available on our website at: <https://www.energyexchangesa.com/index.html> or is available by sending a request for a copy to the Information Officer (whose details are set out in paragraph 3.4 below).
- 3.2 A copy of this Manual may also be inspected at our head office.
- 3.3 This Manual will be updated from time to time, as and when required.
- 3.4 Contact Details & Information Officer

Name of Private Body	Energy Exchange of Southern Africa Proprietary Limited
Head of Private Body	Garth Greubel, Chief Executive Officer
Information Officer	Garth Greubel
Email address of Information Officer	info@energyexchangesa.com
Postal address	Hill House, 42 De Smit Street, De Waterkant Cape Town, Western Cape, 8001
Street address	Hill House, 42 De Smit Street, De Waterkant Cape Town, Western Cape, 8001
Phone number	+27(0)212865062

- 3.5 How to access this Guide (as described in Section 10 of PAIA)

3.5.1 The SAHRC has compiled a Guide in terms of section 10 of the PAIA. The Guide sets out information which would be reasonably required of any person wishing to exercise any right set out in PAIA.

3.5.2 The Guide is available in all of the official languages of South Africa, and is available for inspection at:

The South African Human Rights Commission

PAIA Unit

The Research and Documentation Department

Postal address: Private Bag 2700

Houghton

2041

Telephone: +27 11 877 3600

Fax: +27 11 403 0625

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

E-mail: **paia@sahrc.org.za** or **info@sahrc.org.za**

4 **HOW TO REQUEST ACCESS TO RECORDS HELD BY THE COMPANY?**

4.1 The Requester must comply with all the procedural requirements as set out in PAIA relating to requesting a record held by the Company.

4.2 Pay the prescribed fee

4.2.1 Please note that Requesters are also required to make payment of the prescribed fees for evaluating the request and for providing the records requested, including the requirement to pay a deposit in certain circumstances. Payment must be made before the Company can process the request from the Requester.

4.2.2 The list detailing the prescribed fee payable to the Company in respect of requests and the fees in respect of access to records (if the request is granted) is attached as Annexure B.

4.3 Fill in the prescribed form

4.3.1 Requests for access to records held by the Company must be made by way of the request forms that are available from the SAHRC website (**www.sahrc.org.za**) or the

Department of Justice and Constitutional Development website (www.doj.gov.za). For the convenience of Requesters, copies of such forms are included as Annexure A to this Manual and constitute the standard form that must be used for the making of requests in terms of this Manual. Not using this form could cause your request to be refused (if you do not provide sufficient information or otherwise) or delayed.

- 4.3.2 Requests for access to records must be made to our Information Officer at the address fax number or electronic mail address provided for in paragraph 3.4 above.
- 4.3.3 The Requester must provide sufficient detail on the request form to enable the Information Officer to (i) identify the record and (ii) the Requester.
- 4.3.4 The Requester should also indicate which form of access is required and indicate if he or she wishes to be informed in any other manner and state the necessary particulars to be so informed.
- 4.3.5 The Requester must identify the right that they are seeking to exercise or protect and provide an explanation of why the requested record is required for the exercise of protection of that right.
- 4.3.6 The request will be processed within 30 days of receipt of the completed request forms from the Requester. The request will be evaluated by the Information Officer as well as the representative of the business from which the record is being requested. The Company reserves the right to notify the Requester of an extension period that is required to access the requested information. The said notice will include reasons for such extension, the fact that the required extension period will not exceed 60 days as well as the Requester's right to approach a court via application proceedings for relief in the event that the Requester is against the extension and/or the procedure. Further to that, the Company may notify the Requester whether a deposit is required. This deposit will be determined by factors such as, the format and/or volume of the information requested as well as the time required for the searching for and preparation of the records. The notice will set out the required deposit amount as well as the Requester's right to approach a court via application proceedings for relief in the event that the Requester is against the payment of the required deposit and/or the procedure.
- 4.3.7 Requestors are reminded that the Company can only provide access to records that are in the possession of the Company and not to records of other entities.
- 4.3.8 If a request is made on behalf of a person, the Requester must then submit proof, in the form of an affidavit or letter of consent, of the capacity in which the Requester is making the request to the satisfaction of the Information Officer.
- 4.4 If a Requester is unable to complete the prescribed form because of illiteracy or disability, such a Requester may make an oral request to the Information Officer.

4.5 Kindly note that all requests to the Company will be evaluated and considered in accordance with PAIA. The publication of this Manual and the describing of the categories and subject matter of information held by the Company in this Manual does not give rise to any rights (in contract or otherwise) to access such information or records except in terms of PAIA.

4.6 If it is reasonably suspected that a Requester has obtained access to the Company's records through the submission of materially false or misleading information, legal proceedings may be instituted against such Requester.

5 **VOLUNTARY DISCLOSURE & PUBLIC RECORDS**

5.1 The Company is not obliged to and has not published a notice in terms of section 52(2) of PAIA regarding the categories of records automatically available without a person having to request access thereto in terms of PAIA.

5.2 Nevertheless, the Company does make certain information freely available on the Company's website at <https://www.energyexchangesa.com/index.html> from time to time.

5.3 Further, records of a public nature may be accessed directly without the need to submit a formal application. Other non-confidential records, such as those maintained at the Companies and Intellectual Property Commission ("**CIPC**") may also be accessed directly from the CIPC, and/or other relevant body, without the need to submit a formal application.

5.4 Certain information is also made available to employees of the Company, which is not generally made available to the public. To avoid confusion, such items of information are not listed here but may be obtained by the Company's employees from any group human resource office.

6 **RECORDS AVAILABLE IN ACCORDANCE WITH LEGISLATION**

6.1 The Company is also required to retain certain records of information in terms of legislation. Unless disclosure is prohibited by such legislation, regulations thereto, contractual undertakings or otherwise, these records will be made available for inspection by a party so requesting. Such request must be made as prescribed in this Manual, the particular legislation (as listed below) and in accordance with the Company's policies and procedures thereon (as applicable).

6.2 The information retained in terms of this legislation will only be made available to the persons or entities specified in the legislation –

6.2.1 Companies Act 71 of 2008;

6.2.2 Income Tax Act 58 of 1962;

- 6.2.3 Value Added Tax Act 89 of 1991;
- 6.2.4 Labour Relations Act 66 of 1995;
- 6.2.5 Basic Conditions of Employment Act 75 of 1997;
- 6.2.6 Employment Equity Act 55 of 1998;
- 6.2.7 Skills Development Act 97 of 1998;
- 6.2.8 Skills Development Levies Act 9 of 1999;
- 6.2.9 Unemployment Insurance Act 63 of 2001;
- 6.2.10 Unemployment Contributions Act 4 of 2002;
- 6.2.11 Compensation for Occupational Injuries and Health Diseases Act 130 of 1993;
- 6.2.12 Occupational Health and Safety Act 85 of 1993;
- 6.2.13 Protection of Personal information Act 4 of 2013;
- 6.2.14 Competition Act 89 of 1998; and
- 6.2.15 Customs and Excise Act 91 of 1964.

7 RECORDS HELD BY THE COMPANY AND AVAILABLE ONLY ON REQUEST

- 7.1 The Company maintains certain records as outlined in this paragraph 7. However, please note that recording a category or subject matter in this Manual does not imply that a request for access to such records would be granted.
- 7.2 All requests for access will be evaluated on a case-by-case basis in accordance with the provisions of PAIA.
- 7.3 If the record requested contains information about a third party, the Company is obliged to inform them of such request. This serves to allow the third party the opportunity to respond by either granting consent to the access request or to provide reasons why the request should be denied. The reasons provided by the third party either for consent or denying access will be considered by the Information Officer in making a final decision regarding whether access should be granted or refused.
- 7.4 All records in the possession of the Company that contain Special Personal Information shall only be provided to the person to whom the Special Personal Information pertains. In the event that the Requester is not the subject of the Special Personal Information then the Requester must submit proof of consent to request such record for their use on behalf of the Data Subject.

7.5 The Company processes certain categories of information. The information is classified and grouped according to the records relating to the following categories (1) Company records; (2) personnel records; (3) other parties' records.

7.6 Company records

7.6.1 The type of records the Company keeps on the Company includes –

7.6.1.1 Financial records;

7.6.1.2 Operational records;

7.6.1.3 Company secretarial records;

7.6.1.4 Records pertaining to intellectual property of the Company;

7.6.1.5 Information technology records;

7.6.1.6 Marketing records;

7.6.1.7 Databases;

7.6.1.8 Internal correspondence;

7.6.1.9 Product records;

7.6.1.10 Statutory records;

7.6.1.11 Internal policies and procedures; and

7.6.1.12 Records held by officials of the Company

7.7 Personnel records

7.7.1 Please note these records can only be requested by the person the record pertains to.

7.7.2 This includes –

7.7.2.1 Any personnel records provided to the Company by its personnel;

7.7.2.2 Any records a third party has provided to the Company about any of its personnel;

7.7.2.3 Conditions of employment and other personnel-related contractual and quasi-legal records;

7.7.2.4 Internal evaluation records and other internal records pertaining to personnel; and

7.7.2.5 Correspondence relating to the personnel.

7.8 Other parties' records

- 7.8.1 The Company keeps records in respect of other parties including (without limitation): its banks, auditors, legal advisors and consultants, suppliers, service providers, customers, and general market conditions.
- 7.8.2 In addition, such other parties may possess records which can be said to belong to the Company. The following records fall under this category:
- 7.8.2.1 Personnel, customer, or Group records which are held by another party as opposed to being held by the Company; and
- 7.8.2.2 Records held by the Company pertaining to other parties, including financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors or suppliers.
- 7.9 Please note that access to the above records may be subject to a ground for refusal (set out in paragraph 8 below), including, that the records are subject to confidentiality provisions or necessitate permission from a third party.

8 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

- 8.1 The Company may legitimately refuse to grant access to records that fall within certain categories. The grounds to refuse access to a particular record/s include –
- 8.1.1 records contain Personal Information of a third party and must be protected from unreasonable disclosure, including records of a deceased person;
- 8.1.2 records contain third party commercial information that must be protected from unreasonable disclosure, including records that contain –
- 8.1.2.1 trade secrets; and/or
- 8.1.2.2 financial, commercial, scientific or technical information, the disclosure of which would cause or would likely cause harm to the commercial or financial interests of that third party;
- 8.1.3 disclosure of a record would result in a breach of duty of confidence owed in terms of an agreement to a third party;
- 8.1.4 disclosure of a record would result in an individual's life being endangered;
- 8.1.5 disclosure of a record would prejudice or impair the security of property;
- 8.1.6 disclosure of a record would prejudice or impair the protection of a person under witness protection;
- 8.1.7 disclosure of a record would prejudice or impair public safety;

- 8.1.8 disclosure of a record is privileged in terms of legal proceedings, unless such privilege has been waived;
- 8.1.9 disclosure of a record would harm the commercial and financial interests of the Company, including records that contain –
 - 8.1.9.1 trade secrets; and/or
 - 8.1.9.2 financial, commercial, scientific or technical information;
- 8.1.10 disclosure of a record would put the Company at a disadvantage in contractual or other negotiations or prejudice it in commercial competition; and
- 8.1.11 disclosure of the research of the Company or a third party on behalf of the Company would expose the Company or such third party or the researcher or the subject matter of the research to serious disadvantage.
- 8.2 In the event that the requested record cannot be located and it is believed that the record does not exist, then the Company will inform the Requester by way of affidavit or affirmation of the reason for delay or inability to locate the record.

9 REMEDIES AVAILABLE IN REFUSAL OF A REQUEST FOR INFORMATION

- 9.1 The Company does not have its own internal appeal procedures. A decision made by an Information Officer is final.
- 9.2 When a Requester is not satisfied by a decision made by the Information Officer of the Company, for example for refusing access, for imposing fees, or for extending the time period in which the response is due, the Requester may apply to the appropriate court for relief within 180 days of receiving the decision.
- 9.3 The decision of the Company will be reviewed by a court, and a decision will be made by the courts as to whether or not to provide access to the requested records.
- 9.4 Access to information cases may be heard before the Magistrates' Courts as a court of first instance.

10 PROCESSING OF PERSONAL INFORMATION

- 10.1 Please consult the privacy policy of the Company, available on request, for additional detail in respect of –
 - 10.1.1 the purpose of the processing of Personal Information by the Company;
 - 10.1.2 a description of the categories of Data Subjects and of the information or categories of information relating to them;

- 10.1.3 the recipients or categories of recipients to whom the Personal Information may be supplied;
- 10.1.4 planned transborder flows of Personal Information; and
- 10.1.5 a general description of the information security measures implemented by the Company to ensure the confidentiality, integrity and availability of the information which it may process.

FORM C – REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY



REPUBLIC OF SOUTH AFRICA

FORM C
REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 10]

A. Particulars of private body

The Head:
The Designated Information Officer:
Physical Address:
Postal Address:
Email:

(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: [Grid for ID number]

Postal address:

Telephone number: (.....) Fax number: (.....)

E-mail address:

Capacity in which request is made, when made on behalf of another person:

B. 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: [Grid for ID number]

C. 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:

.....
.....
.....
.....

D. 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:

.....
.....
.....

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

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	YES	NO
--	-----	----

F. 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:

.....

.....

.....

G. 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..... ofyear

.....
SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE

PRESCRIBED FEES IN RESPECT OF PRIVATE BODIES

- 1 PAIA sets out two types of fees –
 - 1.1 An access fee; and
 - 1.2 A request fee.
- 2 When the Information Officer receives a request, he or she will inform the Requester to pay the applicable fee before the Information Officer processes the request (if not already done so).
- 3 Request Fee
 - 3.1 The request fee payable by a Requester, other than a personal Requester is R50.00.
 - 3.2 The request fee is non-refundable.
 - 3.3 The request fee must be paid before the request is considered.
- 4 Access fee
 - 4.1 An access fee is payable by all Requesters (including a personal Requester) once a request has been granted.
 - 4.2 This pertains to the actual fees which have to be paid by the Requester for the delivery of their records in the case of private bodies.
 - 4.3 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.
 - 4.4 The access fees payable by a Requester, other than a personal Requester are as follows:

(a)	For every photocopy of an A4-size page or part thereof	R1,10
(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0,75
(c)	For a copy in a computer-readable form on –	
	Stiffy disc	R7,50
	Compact disc	R70,00
(d)	(i) for the transcription of visual images, for an A40size or part thereof	R40,00
	copy of visual images	R60,00

(e)	(i) For a transcription of an audio record, or an A4-size page or part thereof	R20,00
	(ii) For a copy of an audio record	R30,00
(f)	To search for and prepare the record for disclosure For each hour or part of an hour reasonably required for such search and preparation.	R30,00 for each hour or part thereof

5 Exceptions

- 5.1 If the Information Officer, Deputy Information Officer or Head thinks that the collection and reproduction of documents will take longer than six hours, he or she will inform the Requester (by formal notice) that one third of the access fee is payable upfront as a deposit.
- 5.2 If the record is not provided in the form requested, the access fee that is charged to the Requester will not exceed the fee that would have been charged if access were granted in the form requested. However, this rule does not apply when an alternate form is required because information had to be severed from the record.