

FINANCE IN-MOTION (PTY) LTD ACCESS TO INFORMATION MANUAL PRIVATE BODY

A. PARTICULARS IN TERMS OF SECTION 51 OF THE ACT

1. INTRODUCTION TO THE PROMOTION OF ACCESS TO INFORMATION ACT

On 9 March 2001 the Promotion of Access to Information Act “the Act” came into affect. The Act seeks to advance a culture of transparency and accountability in both public and private bodies. The legislation was enacted as a direct response to Section 32(2) of the constitution of South Africa – the right of access to information – which requires that the Government implements laws in an effort to make information pertaining to public and private bodies more accessible to all.

One of the main requirements specified in the Act is the compilation of a manual that provides information on both the types and categories of records held by the public or private body. In terms of the Act, **FINANCE IN-MOTION (PTY) LTD** is regarded as a “private body” and therefore the requirements regarding access must be in compliance with the provisions of the Act relevant to private bodies. Adherence to these requirements entails not only compilation of the external manual but also compliance with the general provisions stated in the Act. The Act gives effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information may or must not be released.

2. INTRODUCTION TO Finance In-Motion (Pty) Ltd

Here is set out the particulars of the client

2.1 Name of Director

Bradley George McMahon , Ywain GW Penberthy

2.2 Organogram of the Organisation

Bradley McMahon - Ywain Penberthy

3. CONTACT DETAILS

3.1 Name of body

Finance In-Motion (Pty) Ltd

3.2 Information Officer

Bradley McMahon

3.3 Physical Address

24 Kays Avenue
Vandia Grove

3.4 Postal Address

PO Box 694
Paulhof,
2056

3.5 Telephone Number

072-803-1821
Bradley McMahon

3.6 Facsimile Number

n/a

3.7 Email Address

info@fim.co.za

3.8 Website

<http://www.fim.co.za>

4. SECTION 10 - GUIDE ON HOW TO USE THE ACT

In terms of Section 10 of the Act, the Human Rights Commission must compile a guide which guide is intended to assist users in the interpretation of the Act. The guide contains a description of the objects of the Act, the contact details of information officers of all the public bodies, particulars of the public bodies, the manner of access to the records of those public bodies and the remedies available in law regarding a **breach** of any of the provisions of the Act.

The South African Human Rights Commission PAIA Unit Research and Documentation Department
Private Bag 2700
Houghton
2041

Telephone Number: (011) 484-8300

Fax Number: (011) 484-0582

Email Address: PAIA@SAHRC.org.za

Website: www.sahrc.org.za

5. RECORDS AUTOMATICALLY AVAILABLE TO THE PUBLIC

- Newsletters
- Other literature intended for public viewing

6. RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION

6.1 Basic Conditions of Employment Act, 75 of 1997

6.2 Labour Relation Act, 66 of 1995

6.3 Income Tax Act, 58 of 1962

6.4 Unemployment Insurance Act, 30 of 1996

7. RECORDS THAT MAY BE REQUESTED

7.1 Accounting Records

7.1.1 Delivery notes, orders, invoices, statements, receipts, vouchers and bills of exchange

7.2 Financial Records

7.2.1 Banking details

7.2.2 Bank account records

7.3 Statutory Employee Records

7.3.1 Employee's name and occupation

7.3.2 Time worked by each employee

7.3.3 Remuneration paid to each employee

7.3.4 Date of birth of each employee

7.3.6 Attendance register

7.3.7 Letters of appointment

7.4 Personnel Records

7.4.1 Personal records provided by personnel

7.4.2 Conditions of employment

7.5 Taxation

7.5.1 Copies of all income tax returns and other tax returns and documents

7.6 Insurance

7.6.1 Insurance policies

7.6.2 Claim records

7.6.3 Details of insurance coverage limits and insurers

7.7 Information Technology

7.7.1 Hardware

7.7.2 Operating systems

7.7.3 Telephone lines

7.7.4 Software packages

7.8 Marketing Records

7.9 Internal Correspondence

7.10 Product Records

8. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS IN TERMS OF SECTIONS 62 TO 69 OF THE ACT

Access to a record will or may be refused on one or more of the following grounds:

8.1 *Mandatory protection of the privacy of a third party who is a natural person*, if such disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual, subject to the provisions of section 63 (2).

8.2 *Mandatory protection of the commercial information of a third party*, if the record contains:

8.2.1 Trade secrets of that party

8.2.2 Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interest of that third party.

8.2.3 Information disclosed in confidence by a third party, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.

8.2.4 Mandatory protection of confidential information of third parties if it is protected in terms of any agreement.

8.3 *Mandatory protection of the safety of individuals and the protection of property*, where such disclosure could endanger the life or physical safety of an individual, or prejudice or impair the security of:

- (a) a building, structure or any system
- (b) a means of transport, or
- (c) any other property

8.4 *Mandatory protection of records, which would be regarded as privileged from production in legal proceedings*.

8.5 *Commercial information of private body*, in that a request for access to a record may be refused if the record contains;

8.5.1 trade secrets, financial, commercial, scientific or technical information of the institution, which disclosure, could likely cause harm to the financial or commercial interest of the institution.

8.5.2 Information which, if disclosed could prejudice or put the institution at a disadvantage in negotiations or commercial competition.

8.5.3 A computer program which is owned by the institution and which is protected by copyright.

8.6 *Mandatory protection of research information of the institution*. A request will be refused if this disclosure would disclose the identity of the institution, the researcher or the subject matter of the research and would place the researcher at a serious disadvantage.

8.7 Requests for information that are clearly frivolous or vexatious or which involved an unreasonable diversion of resources shall be refused.

9. HOW A PERSON MUST GO ABOUT ASKING FOR RECORDS

9.1 Request procedure

A “requester” is any person making a request for access to records of **FINANCE INFORMATION (PTY) LTD** hereafter known as “the company”. The “requester” must comply with all the procedural requirements contained in the Act relating to the request for access to records. The “requester” must complete the prescribed form enclosed herewith in Annexure “A” and submit the same as well as payment of the request fee and a deposit, if applicable, to the Information Officer at the postal or physical, fax or electronic mail address as stated above. The prescribed form must be filled in with sufficient particulars to at least enable the Information Officer to identify:

9.1.1 The record or records requested

9.1.2 The identity of the “requester”

9.1.3 Which form of access is required, if the request is granted.

9.1.4 The postal address, telephone number and fax number of

the “requester”.

9.1.5 The “requester” must state that he/she requires the information to exercise or protect her/his right and clearly state what the nature of the right is to be exercised or protected. In addition, the “requester” must clearly specify why the records are necessary to exercise or protect such a right.

9.1.6 “The company” will process the request within 30 days after the request has been received.

9.1.7 The “requester” shall be informed whether the access has been granted or denied. If, in addition, the “requester” requires the reasons for the decision in any other manner, he/she must state the manner of the particulars so required. 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 a request to the reasonable satisfaction of the Information Officer and also the ground upon which that person is making the request.

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

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

10. FEES

10.1 The Act provides for two types of fees, namely:

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

10.2 When the request is received by the Information Officer, such officer shall by notice require the “requester” to pay the prescribed request fee before further processing of the request.

10.3 If the search for the record has been made and the preparation of the record for disclosure including arrangements to make it available in the request 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.

10.4 The Information Officer shall withhold the record until the “requester” has paid the fees as indicated in Annexure “B” hereto.

10.5 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 records for disclosure including making arrangements to make it available in the request form.

10.6 If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the “requester” with interest at the prescribed rate.

11. REMEDIES AVAILABLE WHEN THE COMPANY REFUSES REQUEST FOR INFORMATION

11.1 Internal Remedies

The company does not have an internal appeal procedure. As such, the decision made by the Information Officer is final and requesters will have to exercise such external remedies at their disposal if the request for information is refused and the requester is not satisfied with the answer supplied by the Information Officer.

11.2 External Remedies

A requester that is dissatisfied with an Information Officer's refusal to disclose information, may within 30 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 of notification of the decision, apply to a Court for relief.

11.3 Decision

The company will, within 30 days of receipt of the request, decide whether to grant or to decline the request and give notice with reasons, if required, to that effect. The thirty-day period within which the company 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 vast amount of information, or the request requires a search for information held at another office of **FINANCE IN-MOTION (PTY) LTD** and the information cannot reasonably be obtained within the original 30 day period. The company will notify the requester in writing should an extension be sought.

11.4 Decision making process

In terms of Section 54 of the Act, if all reasonable steps have been taken to find the record requested and there are reasonable grounds to believe that the record is in possession of **FINANCE IN-MOTION (PTY) LTD**, but cannot be found, and if it does not exist, then the Information Officer must notify by way of affidavit or affirmation, the requester that it is not possible to give access to that record. If after notice is given, the record in question is found, the requester must be given access thereto unless the ground for the refusal of access exists.

If the request is declined for any reason the notice must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon and provide the procedure to be followed should the requester wish appeal the decision. Section 59 provides that the Information Officer may sever a record and grant access only to that portion which the law does not prohibit access to.

12. THIRD PARTIES

If the request is for the record pertaining to the third party, the Information Officer must take all reasonable steps to inform the third party of the request. This must be done within 21 days of receipt of the request. The manner in which this is done must be by the fastest means reasonably possible, but if orally, the Information Officer must thereafter give the third party a written confirmation of the notification. The third party may within 21 days thereafter either make representation to the company as to why the request should be refused, alternatively grant written consent to the disclosure of the record. The third party must be advised of the decision taken by the Information Officer on whether to grant or to

decline the request and must also be advised of his/her right to appeal against the decision by way of application to Court within 30 days after the notice.

13. AVAILABILITY OF THIS MANUAL

This manual is available for inspection at the offices of **FINANCE IN-MOTION (PTY) LTD** as set out above free of charge. Copies of the manual may be obtained, subject to payment of the prescribed fee at the offices of **FINANCE IN-MOTION (PTY) LTD** above. The manual can also be accessed on the website of **FINANCE IN-MOTION (PTY) LTD** at www.fim.co.za

Annexure A

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Company name)

Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000)

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 records must be recorded below.

(b) Furnish an address and/or fax number in the Republic to which information must be sent.

(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full Name and Surname:

Identity Number:

Postal Address:

Telephone Number: () _____

Fax 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.

Description of record or relevant part of the record:

Reference number, if available:

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.

(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 therefore.

Reason for exemption from payment of fees:

F. FORM OF ACCESS TO RECORD

If you are prevented by a disability from reading, viewing or listening 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:

Mark the appropriate box with an "X"

NOTES:

(a) Your indication as to the required form of access depends 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 for a copy or transcription to be posted to you?

A postal fee 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.

Indicate which right is to be exercised or protected:

Explain why the requested record is required for the exercising 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 thereof 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**

Annexure B

FEES IN RESPECT OF PRIVATE BODIES

1. The fee for a copy of this manual is R1.10 for every photocopy of an A4 size page or part thereof.

2. Where a private body has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

These fees for reproduction 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 –
 - i) stiffy disc R 7.50
 - ii) compact disc R70.00
- d) i) For a transcription of visual images for an A4 size page or part thereof: R40.00
- ii) For a copy of visual images R60.00
- e) i) For a transcription of an audio record, for an A4 size page or part thereof R20.00
- ii) For a copy of an audio record R30.00

3. The **request fee** payable by a requester, other than a personal requester is R50.00

4. The **access fee** payable by a requester is as follows:

- a) For every photocopy of an A4 page or part thereof R1.10
- c) For every printed copy of an A4 size page or part thereof held on a computer or in electronic machine readable form R0.75
- c) For a copy in a computer readable form on -
 - i) stiffy disc R 7.50
 - ii) compact disc R70.00
- d) i) For a transcription of visual images for an A4 size page or part thereof R40.00
- ii) For a copy of visual images
- e) i) For a transcription of an audio record for 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 a record that must be disclosed, for each hour or part of an hour reasonably required for such search and preparation. R30.00

5. Where a private body receives a request for access to information held on a person other than the requester himself/herself and the information officer upon receipt of the request is of the opinion that the preparation of the required record for disclosure will take more than 6 (six) hours, **a deposit** is payable by the requester. One third of the access fee is payable as a deposit by the requester.

6. The actual postage is payable when a copy of a record must be posted to a requester.