

Authorised Financial Services Provider License No 12419



**NAME OF COMPANY:**

**LINCOLN MYBURGH & ASSOCIATES CC 1989/024772/23**

**t/a THE INSURANCE & INVESTMENT SHOP**

## **PAIA MANUAL**

**in terms of Section 51 of**

**The Promotion of Access to Information Act 2/2000  
(the "ACT")**

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## 1. INTRODUCTION

The Promotion of Access to Information Act, 2000, PAIA gives effect to Section 32 of the Constitution, which provides that everyone has the right to access information held by the State, as well as information held by another person (or private body) when such privately held information is required to exercise a right or to protect a right.

PAIA provides that a person requesting information must be given access to any record of a private body, if that record is required for the exercise or the protection of a right. However, such request has to comply with the procedural requirements laid down by the Act.

This manual is compiled in accordance with Section 51 of PAIA and contains the following provisions:

- Lincoln Myburgh & Associates CC 1989/024772/23 t/a The Insurance and Investment Shop's postal address, street address, phone and fax number and e-mail address.
- a short description of the guidance document on the application of the Promotion of Information Act and the process to be followed in order to obtain a copy of this guide (compiled by the Human Rights Commission in terms of section 10 of the Act).
- the process to be followed in order to access information held by Lincoln Myburgh & Associates CC 1989/024772/23 t/a The Insurance and Investment Shop.
- a description of the typology of records held by Lincoln Myburgh & Associates CC 1989/024772/23 t/a The Insurance and Investment Shop (i.e. various information subjects held on each category type). See Paragraph 6.
- a description of Lincoln Myburgh & Associates CC 1989/024772/23 t/a The Insurance and Investment Shop's information which are available in accordance with any other legislation

## 2. COMPANY CONTACT DETAILS

Persons designated/duly authorised persons:

Member: Mr. Thomas Lincoln Myburgh

Office Manager: Mrs. Shannon Barnard

Postal Address: P.O. Box 2359, Plettenberg Bay, 6600

Street Address: Upperdeck Building, Shop no 13, Corner Marine Drive and Main Street Plettenberg Bay 6600

Telephone Number: 044 - 5331245

Fax Number: 044 - 5334782

Email: [s.barnard@global.co.za](mailto:s.barnard@global.co.za) & [insurance@global.co.za](mailto:insurance@global.co.za)

### 3. THE ACT - LEGISLATION

The guidance document on the application of the Promotion of Access to Information Act has been compiled by the South African Human Rights Commission. The guidance document has been developed in order to assist people to access records and to exercise their right to information.

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.

The guide is available in all South African official languages free of charge, and any person may request a copy of the guide. Requesters are referred to the Guide in terms of Section 10 which will contain information for the purposes of exercising Constitutional rights. A copy of the guide may be obtained by contacting the South African Human Rights Commission at:

Postal Address:

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

Telephone: 011 877 3600  
Fax Number: 011 403 0625  
E-mail: [paia@sahrc.org.za](mailto:paia@sahrc.org.za)  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)

### 4. PROCEDURE FOR OBTAINING ACCESS TO INFORMATION

<b>No</b>	<b>Ref</b>	<b>Act</b>
1	No 61 of 1973	Companies Act
2	No 98 of 1978	Copyright Act
3	No 55 of 1998	Employment Equity Act
4	No 95 of 1967	Income Tax Act
5	No 66 of 1995	Labour Relations Act
6	No 89 of 1991	Value Added Tax Act
7	No 37 of 2002	Financial Advisory and Intermediary Services Act
8	No 75 of 1997	Basic Conditions of Employment Act
9	No 69 of 1984	Close Corporations Act
10	No 25 of 2002	Electronic Communications and Transactions Act
11	No 2 of 2000	Promotion of Access of Information Act
12	No 30 of 1996	Unemployment Insurance Act

Any person who wishes to request any information held by Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop in order to protect or exercise a right may contact the information officer at the following contact details:

**Information Officer:** Mrs Shannon Barnard  
**Postal address:** P O Box 2359  
Plettenberg Bay 6600  
**Physical address:** Upperdeck Building, Shop no 13  
Corner Marine Drive & Main Street  
Plettenberg Bay 6600  
**Telephone No:** 044-533 1245  
**Fax No:** 044-533 4782

A request for access to information must be made in the prescribed form to the information officer indicated above. See Annexure A for the prescribed form.

All required text fields on the annexed "Request for Information Form" must be completed in full and in a legible form. The form (as well as any additional pages attached thereto) must be signed by the person submitting the form.

Once the "Request for Information Form" has been submitted, the information officer will notify the person who submitted the request of the prescribed fee (if any) payable before further processing the request. If the request is granted, the person who submitted the request will be accordingly notified and a further fee will be payable if applicable. The additional fee would be for the reproduction, preparation and time reasonably required to search for and prepare the disclosure. The person who submitted the request may lodge an application to court against the tender or payment of the fee.

An individual seeking access to a record containing their own personal information will not be charged a request fee. A person submitting the request must:

- indicate the identity of the person seeking access to the information
- provide sufficient particulars to enable the information officer to identify the information requested
- specify the format in which the information is required
- indicate the contact details of the person requiring the information
- indicate the right to be exercised and/or to be protected, and specify the reasons why the information required will enable the person to protect and/or exercise the right where the person requesting the information wishes to be informed of the decision of the request in a particular manner, state the manner and particulars to be so informed
- if the request for information is made on behalf of another person, submit proof that the person submitting the request, has obtained the necessary authorisation to do so .

## **5. WHO WAY REQUEST INFORMATION IN TERMS OF THE ACT?**

Any person, who requires information for the exercise or protection of any rights, may request information from a private body. Section 50 of the Act states that:

- a) That record is required for the exercise or protection of any rights;
- b) That person complies with the procedural requirements in this Act relating to a request for access to that record; and
- c) Access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of the Act.

The subjects on which the Company holds records and the categories of records are listed below. Please note that a requester is not automatically allowed access to these records and that access to them may be refused in accordance with Sections 62 to 69 of the Act.

## **6. SCHEDULE OF RECORDS (Section 51 (1) (d))**

### **6.1 Human Resources**

Records found in this division contain information of employees that include the following:

- a) any personal records provided to Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop by the employee/personnel
- b) any records a third party has provided to Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop about its personnel;
- c) conditions of employment and other personnel-related contractual and quasi-legal records;
- d) internal evaluation records;
- e) other internal records and correspondence related to the particular employee.

### **6.2 Client related records**

Clients include both juristic and natural entities that receive a service from Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop. This information includes:

- a) any records a client has provided to a third party acting on behalf of Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop;
- b) any records a Third Party has provided to Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop; and
- c) records generated by or within Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop pertaining to the client, including transactional records.

### **6.3 Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop Records**

This category of records relates, but is not limited to, the following information:

- a) Financial records
- b) Operational records
- c) Databases
- d) Information Technology
- e) Marketing records
- f) Internal correspondence

- g) Product records
- h) Statutory records
- i) Internal policies and procedures
- j) Treasury related records
- k) Securities and equities
- l) Records held by officials of Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop

#### 6.4 Other Parties

Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop may possess records pertaining to other parties, including without limitation, contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, service providers.

Alternatively such other parties may possess records that can be said to belong to Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop. The following records fall under this category:

- a) Personnel, client or Lincoln Myburgh & Associates CC t/a The Insurance & Investment Shop records which are held by another party as opposed to being held by us; and
- b) Records held by us pertaining to other parties, including without limitation financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.

#### 6.5 Records available in terms of other legislation PAIA MANUAL:

The requestor may also request information that is available in terms of legislation, such as the following:

- a) Basic Conditions of Employment Act (Act No 75 of 1997);
- b) Compensation for Occupational Injuries and Diseases Act (Act No. 130 of 1993);
- c) Employment Equity Act (Act No. 55 of 1998);
- d) Labour Relations Act (Act No. 66 of 1995);
- e) Occupational Health and Safety Act (Act No. 85 of 1993);
- f) Promotion of Equality and Prevention of Unfair Discrimination Act (Act No. 4 of 2000);
- g) Skills Development Act (Act No. 97 of 1998);
- h) Skills Development Levies Act (Act No. 9 of 1999);
- i) South African Qualifications Authority Act (58 of 1995);

Information relating to personnel may be requested in terms of the above legislation

- j) Companies Act (Act No. 61 of 1973);
- k) Short-Term Insurance Act (Act No. 53 of 1998);
- l) Financial Markets Control Act (55 of 1989); and
- m) Financial Services Board Act (97 of 1990).

Records relating to company reporting and Company related records as far as is allowed in terms of these Acts may be requested.

- n) Income Tax Act (Act No. 58 of 1962 as amended); and
- o) VAT Act (89 of 1991)

Records relating to tax, employees and the company may be requested in terms of the above Acts.

The information officer will take into consideration section 9 of the manual to decide on whether or not access to any of the information stated above should be given to the requester.

## **7. DECISION MAKING PROCESS**

7.1. In terms of Section 55, the information officer will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the information officer must notify the requester by way of affidavit or affirmation, that it is not possible to give access to the record. This is deemed to be a refusal of the request. If, however, the record is later found, the requester must be given access if the requester would otherwise have been granted. PAIA MANUAL:

7.2. Section 56 provides that the information officer must within 30 days of receipt of a correctly completed request; notify the requester of the decision as to whether or not to grant the request. If the request is:

7.2.1. Granted: the notification must state the applicable access fee required to be paid, together with the procedure to be followed should the requester wish to apply to court against such fee, and the form in which access will be given.

7.2.2. Declined: the notification 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 to apply to court against the decision.

7.3. The information officer may extend the period of 30 days by a further period not exceeding 30 days if:

7.3.1. The requester is for a large number of records or requires a search through a large number of records;

7.3.2. Consultation between divisions of Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop, or with another private body is required; or

7.3.3. The requester consents to the extension. The requester must be notified within the initial 30-day period in writing of the extension, together with reasons therefore, and the procedure involved should the requestor wish to apply to court against the extension. The information officer's failure to respond to the requester within the 30 day period constitutes a deemed refusal of the request.

7.4. 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.

7.5. If access is granted, access must be given in the form that is reasonably required by the requester, or if the requester has not identified a preference, in a form reasonably determined by the information officer.



## **8. THIRD PARTIES**

If the request is for record pertaining to a third party, the information officer must take all reasonable steps to inform that 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 in 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 representations to Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop 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 decline the request, and must also be advised of his/her/its right to appeal against the decision by way of application to court within 30 days after the notice.

## **9. GROUNDS FOR REFUSAL OF A REQUEST**

Notwithstanding compliance with section 50, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:

9.1. Section 63 of the Act prohibits the unreasonable disclosure of the personal information of natural-person third parties to requestors. This includes the personal information of deceased persons. However Section 63 (2) does provide exceptions to this.

9.2. Section 64 states that a request must be refused if it relates to records containing third party information pertaining to:

9.2.1. Trade secrets;

9.2.2. Financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or

9.2.3. Information, supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition. The information must, however, be released if it pertains to the results of products or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

9.3. Section 65 prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.

9.4. In terms of Section 66, Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop must refuse a request for access to a record of the body if disclosure could reasonably be expected to:

9.4.1. Endanger the life or physical safety of an individual;

9.4.2. Prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property;

- 9.4.3. Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop may also refuse a request for access to information that would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.
- 9.5. Section 67 mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.
- 9.6. Section 68 pertains to records containing information about Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop itself and unlike the other provisions pertaining to declinature of a request, is not mandatory, but rather discretionary. We may refuse access to a record if the record:
- 9.6.1. Contains trade secrets of Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop;
  - 9.6.2. Contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop;
  - 9.6.3. Contains information which, if disclosed, could reasonably be expected to put Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop at a disadvantage in contractual or other negotiations, or prejudice us in commercial competition; or
  - 9.6.4. Consists of a computer program owned by Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop.
  - 9.6.5. Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.
- 9.7. Section 69 prohibits the disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to Lincoln Myburgh & Associates CC t/a The Insurance and Investment Shop itself.
- 9.8. Notwithstanding any of the above-mentioned provisions, section 70 provides that a record must be disclosed if its disclosure would:
- 9.8.1. Reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and
  - 9.8.2. If the public interest in the disclosure clearly outweighs the harm.

## **10. RIGHTS OF APPEAL**

- 10.1. A requestor that is dissatisfied with the information officer's refusal to grant access to any information may, within 30 days of notification of the decision, apply to court for relief. Likewise, a third party dissatisfied with the information officer's decision to grant a request may, within 30 days of notification of the decision, apply to court for relief.

10.2. It should be noted that notwithstanding any provision in this Act, the court may examine the record (s) in question. No record may be withheld from the court in any grounds. The court may not, however, disclose the contents of the record (s).

10.3. The court is empowered to grant any order that is just and equitable, including:

10.3.1. Confirming, amending or setting aside the information officer's decision;

10.3.2. Requiring the information officer to take any action, or refrain from taking any action as identified by the court within a specified period;

10.3.3. Granting an interdict, interim or special relief, declaratory order or compensation; or an order as to costs.

## **ANNEXURE A - Form of Request - (Section 51 (1) (e))**

**To facilitate the processing of your request, kindly:**

- Use the prescribed form, available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).
- Address your request to the Head of the Company (CEO).
- Provide sufficient details to enable the COMPANY to identify:
  - (a) The record(s) requested;
  - (b) The requester and if an agent is lodging the request, proof of capacity;
  - (c) The form of access required;
  - (d) (i) the postal address or fax number of the requester in the Republic;  
(ii) if the requester wishes to be informed of the decision in any manner (in addition to written) the manner and particulars thereof;
  - (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

## **ANNEXURE B - PRESCRIBED FEES**

(Section 51 (1) (f)) **Annexure B** - the Fee schedule to the manual and the prescribed form C is also available from the SAHRC website.

The following applies to requests (other than personal requests):

- A requestor is required to pay the prescribed fees (R50.00) before a request will be processed;
- 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);
- A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- Records may be withheld until the fees have been paid.
- 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).

## **ANNEXURE C – EXTRACTS FROM SECTION 10 GUIDE AS SUPPLIED BY SAICA**

### **SOUTH AFRICAN HUMAN RIGHTS DISCLAIMER**

The South African Human Rights Commission reserves all rights and makes no warranty, either express or implied, with respect to the information and/or promotional material contained herein and is not responsible for any expenses, inconvenience, damage (whether special or consequential) or claims arising out of posting, time and costs incurred and or associated with this information and will not be liable for the latter. Specific exemption from any liability is claimed with regard to the following:

- 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 advice 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.

## PAIA MANUAL - ANNEXURE B: FEES

1.	The fee for a copy of the manual as contemplated in regulation 9(2)( c ) for every photocopy of an A4 – size page or part thereof	R 1.10
	The fee for reproduction referred to in regulation 11(1) are as follows:	
	a. For every photocopy of an A4 size page or part thereof:	R 1.10
	b. For every printed copy of an A4 size page or part thereof held on a computer or in a machine readable form	R 0.75
	c. For a copy in a computer – readable form on (i) stiffy disc (ii) compact disc	R 7.50 R70.00
	d. For a transcription of visual images, for an A4 size page or part thereof (i) for a copy of visual images	R40.00 R60.00
	e. For a transcription of an audio record, for an A4 size page or part thereof (i) for a copy of an audio record	R20.00 R30.00
2.	The request fee payable by a requester, other than a personal requester referred to in regulation 11(2) is	R50.00
3.	<b>The access fees payable by a requester referred to in regulation 11(3) are as follows:</b>	
	1a. for every photocopy of an A4 size page or part thereof	R 1.10
	b. for every printed copy of an A4 size page or part thereof held on a computer or in a machine readable form	R 0.75
	c. for a copy in a computer – readable form on – (i) stiffy disc (ii) compact disc	R 7.50 R70.00
	d. for a transcription of visual images, for an A4 size page or part thereof (i) for a copy of visual images	R40.00 R60.00
	e) for a transcription of an audio record, for an A4 size page or part thereof (i) for a copy of an audio record	R20.00 R30.00
	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	R30.00
	<b>For purposes of Section 54(2) of the Act, the following applies:</b>	
	2a. Six hours as the hours to be exceeded before a deposit is payable; and b. One third of the access fee is payable as deposit by the requested.	
	3. The actual postage is payable when a copy of a record must be posted to the requester.	