



# BAILEY HAYNES INCORPORATED

Attorneys & Conveyancers

(the “firm”)

## MANUAL

In terms of Section 51 of the Promotion of Access to Information Act 2 of 2000

(“PAIA”)

## PAIA

The purpose of PAIA is to give effect to the constitutional right of access to information held by the state / government and information which is held by another person and that is required for the exercise / protection of any rights. PAIA was enacted in order to foster a culture of transparency and accountability in public / private institutions by giving effect to the right of access to information and in order to actively promote a society in which the South African people have effective access to information to enable them to fully exercise and protect their rights.

PAIA applies to records of a private institution (which records are defined in terms of Section 1 as any recorded information) regardless of the form / medium, in the possession / under control of the private institution and whether or not it was created by the institution.

In terms of Section 50 of PAIA, a requester must be given access to any record of the private institution if that record is required for the exercise / protection of any right(s); the requester complies with the requirements relating to a request for access to the record and access to the record is not refused on any ground contemplated in Section 63 to 70, namely:

1. Mandatory protection of privacy of third party who is a natural person
2. Mandatory protection of commercial information of third party
3. Mandatory protection of certain confidential information of third party
4. Mandatory protection of safety of individuals and protection of property
5. Mandatory protection of records privileged from production in legal proceedings
6. Commercial information of third party
7. Mandatory protection of research information of third party and protection of research information of third party
8. Mandatory protection in public interest

## BAILEY HAYNES INC

The firm conducts business as a partnership of attorneys and conveyancers.

### CONTACT DETAILS (SECTION 51(1)(a):

<b>Name of firm:</b>	Bailey Haynes Incorporated
<b>Street address:</b>	2 <sup>nd</sup> Floor, Paramount Towers, 112 Loop Street, Cape Town
<b>Postal address:</b>	PO Box 464, Cape Town, 8000
<b>Managing partner / Information Officer:</b>	Mr. Jacques Christian Haynes
<b>Contact person:</b>	Mr. Jacques Christian Haynes
<b>Tel number:</b>	(021) 422 4963
<b>Fax number:</b>	(021) 422 4960
<b>Email address:</b>	<a href="mailto:jacques@baileyct.co.za">jacques@baileyct.co.za</a>
<b>Website address:</b>	<a href="http://www.baileyct.co.za">www.baileyct.co.za</a>

### SOUTH AFRICAN HUMAN RIGHTS COMMISSION (“SAHRC”) – SECTION 10 GUIDE – HOW TO USE PAIA – SECTION 51(1)(b)

The guide is available from the SAHRC and any queries can be directed to:

#### SAHRC

#### PAIA Unit

#### The Research and Documentation Department

Postal address: Private Bag 2700, Houghton, 2041

Telephone: (011) 877 3600

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

Email: [PAIA@sahrc.org.za](mailto:PAIA@sahrc.org.za)

## CLASSIFICATION OF ACCESSIBILITY OF RECORDS:

Classification number	Access	Category
1	May disclose	Statutory instruments and Public access records
2	May not disclose	Request after commencement of criminal / civil proceedings (Section 7)
3	May not disclose	Confidential information in terms of any other law, regulation, rule or other lawful prescription
4	Limited disclosure	Personal information that belongs to the requester of that information (Section 61)
5	May not disclose	Unreasonable disclosure of personal information of natural person (Section 63(1))
6	May not disclose	Likely to harm the commercial / financial interests of third party (Section 64(a)&(b))
7	May not disclose	Likely to harm the firm / third party in contract / other negotiations (Section 64(c))
8	May not disclose	Will breach a duty of confidence owed to a third party in terms of an agreement (Section 65)
9	May not disclose	Likely to compromise the safety of individuals / protection of property (Section 66)
10	May not disclose	Privileged legal documents (Section 67)
11	May not disclose	Environmental testing / investigation which reveals public safety / environmental risks (Sections 64(2) & 68(2))
12	May not disclose	Commercial information of the firm as specified in Section 68

13	May not disclose	Likely to prejudice research and development information of the firm / third party (Section 69)
14	May not refuse	Disclosure in public interest (Section 70)
15	Available without request	Firm website information

## RECORDS HELD BY THE FIRM

Department	Subject
Human resources	<ul style="list-style-type: none"> <li>• Staff records</li> <li>• Employment contracts</li> <li>• Staff policies / procedures</li> <li>• Health &amp; Safety records</li> <li>• Salary &amp; Wage records</li> <li>• Disciplinary records</li> </ul>
Firm	<ul style="list-style-type: none"> <li>• Records of Directors</li> <li>• Audited financials</li> <li>• Tax records</li> <li>• Investment accounts</li> <li>• Management accounts</li> <li>• Contracts with suppliers</li> <li>• Trust / Business accounts</li> <li>• Fidelity fund certificates</li> <li>• Budgets</li> <li>• Correspondence</li> <li>• Bank statements</li> </ul>
Clients	<ul style="list-style-type: none"> <li>• Files</li> <li>• Records</li> </ul>
Practice promotion	<ul style="list-style-type: none"> <li>• Strategy documents</li> <li>• Client database</li> <li>• Promotional material</li> </ul>
Records required to be held by other legislation (Section 51(1)(d))	<ul style="list-style-type: none"> <li>• Attorneys Act 53/1979</li> <li>• Income Tax Act 58/1962</li> <li>• VAT Act 59/1991</li> <li>• UIF Act 75/1966</li> <li>• BCEA 75/1997</li> </ul>

	<ul style="list-style-type: none"> <li>• EEA 55/1998</li> <li>• COID Act 130/1993</li> <li>• Insolvency Act 24/1936</li> <li>• OHS Act 85/1993</li> <li>• SDL Act 9/1999</li> <li>• SD Act 97/1998</li> <li>• PAIA Act 2/2002</li> <li>• Administration of Estate Act 66/1965</li> <li>• Credit Agreements Act 75/1980</li> <li>• Insurance Act 27/1943</li> <li>• Post Office Act 44/1958</li> </ul>
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## **MANNER OF ACCESS & APPEALS PROCESS**

To facilitate the processing of a request, a requester should:

1. Use the prescribed form, available at the offices of the firm
2. Address the request to “The information officer”
3. Provide sufficient details to enable the firm to identify:
  - a. The record(s) requested
  - b. The requester (and if an agent is lodging the request, proof of capacity)
4. Indicate which form of access is required
5. Specify the postal address and fax number / email address of the requester; and
6. Identify 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

As soon as possible but in any event within 30 days after receipt of a request which complies with the requirements of PAIA and the contents of this manual, the head of the firm shall decide whether to grant the request in accordance with PAIA and the contents of this manual and notify the requester of the decision in this regard. The head of the firm reserves its right to extend the aforesaid 30 day period for a further period of 30 days on grounds set out in PAIA, subject to the head of the firm notifying the requester of the extension, the reasons for the extension and that the requester can apply to court against extension.

If the head of the firm fails to give a decision on a request within the aforesaid period, the request is deemed to have been refused.

A requester aggrieved by:

1. The decision of the head of the firm to refuse a request for access;
2. A decision taken in respect of fees;
3. A decision to extend the requisite period to deal with the request; or
4. A decision in respect of the form of access to a record

may by way of an application within 30 days apply to court for appropriate relief in terms of Section 78 read with Section 82 of PAIA.

## **OTHER PRESCRIBED INFORMATION**

### **Fees in respect of requests for information of Private Bodies (Section 54)**

In the case of requests where the requester is seeking to access a record which contains personal information about the requester (“personal requester”), no fee is payable.

In all other cases, a list of the fees payable by a requester is attached as Annexure A hereto, which list is in accordance with regulation 11(1) of the Regulations to PAIA, 15 February 2002 (made in terms of Section 92 of PAIA).

### **Application Form for request for access to record of private body (Section 53)**

A copy of the application form is attached as Annexure B hereto, which form is in accordance with regulation 10 of the Regulations to PAIA, 15 February 2002 (made in terms of Section 92 of PAIA).

### **Availability of the manual (Section 51(3))**

This manual is on the website [www.baileyct.co.za](http://www.baileyct.co.za) and it is also available for inspection at the offices of the firm and a copy has been made available to the SA Human Rights Commission in accordance with regulation 9(1) of the Regulations to PAIA, 15 February 2002 (made in terms of Section 92 of PAIA).

## 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 for reproduction referred to in regulation 11(1) are as follows:

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(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) stiffy 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:

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(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) stiffy 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.



**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:

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2. Reference number, if available:

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3. Any further particulars of record:

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**E. Fees**

- ) 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:

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**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.	

<b>1. If the record is in written or printed form:</b>					
	copy of record*		inspection of record		
<b>2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):</b>					
	view the images		copy of the images*		transcription of the images*
<b>3. If record consists of recorded words or information which can be reproduced in sound:</b>					
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)		
<b>4. If record is held on computer or in an electronic or machine-readable form:</b>					
	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
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**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:

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2. Explain why the record requested is required for the exercise or protection of the aforementioned right:

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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 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?

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Signed at ..... this day ..... of ..... year .....

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