

**Guide on  
how to use the  
Promotion of Access  
to Information Act 2  
of 2000**



**south african  
human  
rights  
commission**

# Guide on how to use the Promotion of Access to Information Act 2 of 2000

## Language sections

1

ENGLISH

2

AFRIKAANS

3

ISINDEBELE

4

ISIXHOSA

5

ISIZULU

6

SEPEDI

7

SESOTHO

8

SETSWANA

9

SISWATI

10

TSHIVENDA

11

XITSONGA

## Contact details

1

NATIONAL GOVERNMENT

2

PROVINCIAL DEPARTMENTS

3

MUNICIPALITIES

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Promotion of Access  
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# Finding your way around the PAIA Guide

## Section 1

Introduction to the PAIA Guide

## Section 2

Where to find information that you need

## Section 3

How to make a request for access to information

## Section 4

When access to information can / may be refused

## Section 5

Key references and resources for further information

USEFUL TERMS.....	6
LIST OF ABBREVIATIONS .....	8
SECTION 1:.....	9
1.1 The purpose of this PAIA Guide .....	10
1.2 The history of PAIA .....	10
1.3 The purpose of PAIA and how it can be used .....	10
1.4 The role of the South African Human Rights Commission.....	11
SECTION 2: FINDING THE INFORMATION THAT YOU NEED.....	12
1.1 Getting started .....	13
2.2 The PAIA Guide .....	13
2.3 PAIA Manuals.....	14
2.4 Automatically available information held by a public body.....	18
2.5 Automatically available information held by a private body .....	19

<b>SECTION 3: HOW TO MAKE A REQUEST FOR ACCESS TO INFORMATION.</b> .....	20
3.1 Who can make a PAIA request? .....	21
3.2 What is the cost for making a PAIA request? .....	23
3.3 Can an Information Officer help me make a PAIA request? .....	25
3.4 What legal remedies do I have when my PAIA request is denied? .....	27
<b>SECTION 4: WHEN ACCESS TO INFORMATION CAN/MAY BE REFUSED.</b> .....	31
4.1 When access to information may be refused .....	32
4.2 Mandatory v Discretionary grounds for refusing access to information .....	32
4.3 Grounds for refusing access to information .....	33
4.4 Public Interest Override .....	36
<b>SECTION 5: KEY REFERENCES AND OTHER USEFUL INFORMATION.</b> .....	37
5.1 Key references .....	38
5.2 PAIA Regulations .....	38
5.3 PAIA Amendments .....	39
5.4 Amendments to PAIA Regulations .....	39
5.5 Other useful PAIA resources .....	39

## Useful terms

TERMS	DESCRIPTION
Access fee	<p>This is the fee paid by the requester to the public or private body from which you are seeking the information, to cover the costs of finding and copying the records you require.</p> <p><i>(For more information on access fees see Section 3 of this Guide).</i></p>
Form A	<p>Found at the end of the PAIA, on the South African Human Rights Commission's website, and the websites of various public institutions. This form is used to request access to information held by a public body.</p> <p><i>(For more information on Form A and requests of access to information to public bodies see Section 3 of this Guide).</i></p>
Form C	<p>Found at the end of the PAIA, on the South African Human Rights Commission's website, and the websites of various other private companies. This form is used to request access to information held by a private body.</p> <p><i>(For more information on Form C and requests of access to information to private bodies see Section 3 of this Guide).</i></p>
Guide	<p>Refers to this Guide on PAIA which has been compiled and published by the South African Human Rights Commission, to assist persons in using and understanding PAIA, as provided for in Section 10 of PAIA.</p>
Information Officer and Deputy Information Officer	<p>The Information Officer (sometimes referred to as IO) is the person authorized to handle PAIA requests. For a public body, this is the person who is or is acting as the head of the body. For a municipality, this is the municipal manager; for a national department it would be the Director General; for a body such as the South African Human Rights Commission it would be the CEO.</p> <p>The Deputy Information Officer (sometimes referred to as DIO) is the person designated by the Information Officer of a public body to assist the requester with their information request.</p> <p>PAIA does not provide for private bodies to designate a Deputy Information Officer; however the South African Human Rights Commission recommends that they do so for efficiency and convenience.</p> <p><i>(For more information on the role of Information Officers see Section 3 of this Guide).</i></p>

Internal Appeal (Form B)	<p>Requesters must use PAIA Form B to appeal a decision made by the national, provincial or municipal spheres of government regarding access to information.</p> <p>(For more information on internal appeals see Section 3 of this Guide).</p>
Juristic person	A company or body which is recognized by law as an entity or 'person' having rights and duties.
Minister	References to the Minister are in relation to the Minister of Justice and Correctional Services.
Natural person	A real person, as opposed to a legal or juristic person such as a corporation (see juristic person above).
Private body	(Also referred to as a private company or institution) This is a natural or juristic person or partnership who is involved or has been involved in any trade, business or profession in that capacity.
Record	Any recorded information regardless of the form, including, for example, written documents, video materials etc. A record requested from a public or private body refers to a record that is in that body's possession regardless of whether that body created the record.
Request fee	<p>The cost to be paid for making a request for access to information. For an information request to a public body there is a standard fee of R35; for an information request to a private body there is a standard fee of R50.</p> <p>(For more information on request fees and the exemptions see Section 3 of this Guide).</p>
Requester	The natural or juristic person requesting access to information. A requester also refers to the person making a request on behalf of somebody else.
Third party	Any natural or juristic person who is not the requester of the information, nor the body to whom the information request is made.

## List of abbreviations

The following abbreviations are found in this Guide and other commonly used *PAIA* resources:

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**DIO** Deputy Information Officer

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**IO** Information Officer

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**ODAC** Open Democracy Advice Centre

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**PAIA** Promotion of Access to Information Act 2 of 2000

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**PPIA** Protection of Personal Information Act 4 of 2013

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**SAHA** South African History Archives

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**SAHRC** South African Human Rights Commission

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# Section 1

## Introduction

This section includes:

- 1.1 The purpose of this PAIA Guide
- 1.2 The history of PAIA
- 1.3 The purpose of PAIA and how it can be used
- 1.4 The role of the South African Human Rights Commission

## 1.1 The purpose of this PAIA Guide

This Guide provides information on the Promotion of Access to Information Act of 2000 (PAIA). This PAIA Guide will assist people in making requests for information under PAIA, and provides examples on how PAIA has been used in the past to advance human rights. It does this by providing:

- » An easy to understand overview of PAIA
- » A breakdown of how PAIA can be used to advance other human rights
- » A list of types of information which can be requested using PAIA
- » A step-by-step guide on how to use PAIA to make an information request

## 1.2 The history of PAIA

When the South African Constitution was being drafted in the period following the fall of Apartheid in the 1990s, various organizations and individuals campaigned for the inclusion of a right of access to information. It was hoped that the inclusion of this right in the Bill of Rights - Chapter 2 of the Constitution - would ensure that atrocities such as Apartheid could never again take place as the state and private corporations would be obliged to act in an accountable and transparent manner by providing access to information, and therefore, would be unable to hide behind the veil of secrecy.

In 1996, the Constitution of the Republic of South Africa 1996 came into force. Section 32 enshrines the right of access to information held by both public and private bodies. Section 32 also states that legislation must be enacted to give effect to the right of access to information by detailing the ways in which information from public and private bodies can be accessed, and by providing grounds on which a public and private body could refuse access to information.

In 2000, the Promotion of Access to Information Act (PAIA) came into law, fulfilling the provision of section 32 of the Constitution which requires the enactment of legislation relating to access to information.

## 1.3 The purpose of PAIA and how it can be used

The purpose of PAIA is to promote the right of access to information, to foster a culture of transparency and accountability in South Africa. Furthermore, PAIA is aimed at encouraging an open democracy where individuals from all walks of life are empowered to engage with government and participate in decisions which affect their lives.

The right of access to information is a unique right as it enables the realization of other human rights: this is one of the most important ways in which PAIA can be used.

### Provision of government services

- » PAIA can be used to empower people and to hold government to account for the provision of basic services such as water and sanitation.

### Civil and political rights

- » PAIA can be used to gather information which individuals can use for exercising rights such as the right to vote and the right to freedom of assembly.

### Discrimination and Equality

- » PAIA can be used as an advocacy tool to fight discrimination on the basis of race, gender, etc. by public or private bodies.

It is important to note that PAIA cannot be used to obtain records for use during civil or criminal legal proceedings after the commencement of such proceedings if the production or access to records for this same purpose are provided for in by law (*see Section 7 of the PAIA*).

## 1.4 The role of the South African Human Rights Commission

The South African Human Rights Commission (SAHRC) is mandated under PAIA to:

- » Promote the right of access to information
- » Monitor the implementation of PAIA by public and private bodies
- » Make recommendations to strengthen the PAIA
- » Report annually to Parliament

### The Protection of Personal Information Act

The Protection of Personal Information Act 4 of 2013 (PPIA) amends PAIA in a number of ways. One of the key ways in which PPIA changes PAIA relates to the role of the SAHRC. Under PPIA the SAHRC's functions in terms of PAIA will be transferred to the Information Regulator, a new independent body which will be set up to monitor both PPIA and PAIA, and to handle complaints relating to access to information and the protection of personal information.

However, the SAHRC will still retain its Constitutional obligation to promote, protect and monitor the right of access to information as a rights enshrined in the Bill of Rights.

# Section 2

## Finding the information that you need

This section includes:

- 2.1 Where to find useful guides and manuals to assist you in making requests for information

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- 2.2 Who to contact for assistance

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- 2.3 What public and private bodies are required to do to assist information requesters

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- 2.4 Information that is available automatically without having to make a request, in terms of PAIA

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## 2.1 Getting started

The purpose of PAIA is to actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights. Sometimes one may be unsure of where to start or how to go about accessing information in terms of PAIA. PAIA foresees this problem and therefore requires that certain guides and manuals be published to map the way forward for information requesters. This section provides an overview of these guides and manuals, the responsibilities of the publishers of these guides and manuals, and, most importantly, where to find them.

Of course, one of the most powerful tools one can use to gain access to information is the formal request for information made in terms of PAIA, which this guide will assist you with. But remember, this is not the only avenue through which to pursue information. Some information is available automatically without even having to make a formal PAIA request. In some cases, legislation actually requires both public and private bodies to disclose certain information publicly. This section also provides an overview of where to access this information.

PAIA is intended to be an empowering piece of legislation that assists all South Africans. It is intended to be a law that is easy to understand and that anyone can use. One does not need a lawyer to make a request for information in terms of PAIA. This guide has been published to assist South Africans from all walks of life to uphold their constitutional right of access to information.

## 2.2. The PAIA Guide

Section 10 of PAIA requires the SAHRC to compile and publish an easy to understand guide to assist people in accessing records and documents and exercising one's right to information. The guide is sometimes referred to as the 'Section 10 Guide'.

The Guide provides you with all the information you need to access any records. It also lists the contact details of government departments and institutions that keep records for the state. The SAHRC is also required to update this guide at least once every two years.

### 2.2.1 Where to find the guide

This Guide is available in all official languages of South Africa: English, Afrikaans, isiNdebele, isiXhosa, isiZulu, Sepedi, Sesotho, Setswana, siSwati, Tshivenda and Xitsonga. Copies of the Guide can be found at the head office of the SAHRC and all of its provincial offices (contact details of the offices can be found at the end of this Guide). In addition, an electronic copy is available on the SAHRC's website ([www.sahrc.org.za](http://www.sahrc.org.za)).

## 2.3 PAIA Manuals

In addition to the Section 10 Guide on PAIA compiled by the SAHRC, PAIA also requires every public body, as well as private bodies, to produce a manual which contains information on how to use PAIA to access their own records.

### 2.3.1 PAIA manuals for public bodies

Section 14 of PAIA requires all public bodies to publish a manual in at least three official languages that assists information requesters to make requests for information from the body concerned. At the very least, the manual must contain the following information:

REQUIREMENT	DESCRIPTION
Mandate	The structure and functions of the public body.
Contact details	The postal and street address, phone and fax number and, if available, the e-mail address of the Information Officer of the public body, as well as of every Deputy Information Officer of the public body.
PAIA Section 10 Guide	A description of this Guide compiled by the SAHRC and how to access it.
Categories of records held	Adequate information to assist in facilitating access to a record held by a public body. The public body must therefore describe the subjects on which it holds records, and the categories of records held on each subject.
Automatically available information	Some information is readily available without a person having to request access in terms of PAIA. The manual of the public body must indicate which information is readily available.
Services of the public body	A description of the services available to members of the public from the public body, and how to gain access to those services.
Public participation	A description of any arrangement or provision for a person to either consult, make representations or participate in or influence the formulation of policy; or the exercise of powers or performance of duties by the public body.
Recourse	The action you may take if the Information Officer of the public body refuses to give you access to information.

## 2.3.2 Where to find the manual of a public body

All public bodies must make the manual easily available to you. At the very least, they are required to do so in at least the following ways:

- » By making a copy available at every office of that particular public body during office hours;
- » By making available the manual on the website, if any, of the public body

The PPIA amends PAIA in a number of ways. One of these is in relation to Section 14 manuals for public bodies. Under PPIA, these manuals will not have to be submitted to the SAHRC, but must only be available online and made available to anyone who requests a copy.

## 2.3.3 PAIA manuals for private bodies

Private bodies are also required to compile a manual in terms of section 51 of the PAIA. At present, not all private bodies must comply with this section. You may find, therefore, that the body from which you wish to request information has no manual. This does not mean that the body is not subject to PAIA generally. You can still request information from this body and they are still required to process your request. The procedure for making a request for information in terms of PAIA remains the same, even if the private body does not have a manual.

### WHICH PRIVATE BODIES DO NOT HAVE TO PUBLISH AN INFORMATION MANUAL?

ALL private bodies must compile a manual. However, the Minister of Justice and Correctional Services may exempt certain private bodies or categories of bodies from having to publish a manual. At present, the Minister has exempted certain private bodies from having to compile manuals for a period of five years, with effect from 1 January 2016 UNLESS the body falls within the categories detailed below.

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The following private companies must compile a PAIA manual if they employ over 50 employees in the following industries or have an annual turnover which is greater than the listed amount:

INDUSTRY	ANNUAL TURNOVER
Agriculture	R2 million
Mining and Quarrying	R7 million
Manufacturing	R10 million
Electricity, Gas and Water	R10 million
Construction	R5 million
Retail and Motor Trade and Repair Services	R15 million
Wholesale Trade, Commercial Agents and Allied Services	R25 million
Catering Accommodation and Other Trade	R5 million
Storage and Communications	R10 million
Finance and Business Services	R10 million
Community, Special and Personal Services	R5 million

The Minister also stated that all companies which are not defined as 'private companies' under section 1 of the Companies Act 71 of 2008 are required to compile a Section 51 manual.

### 2.3.4 Where to find the manual of a private body

All private bodies that are required to compile a manual must make the manual easily available to you in the following ways:

- » By making a copy available for inspection at every office of that particular private body during office hours. A private body may not charge a fee for inspection;
- » By making the manual available on their website.

### 2.3.5 How to comply if you are a private body

There is useful guidance for Information Officers of private companies seeking to comply with Section 51 of PAIA on the SAHRC's website ([www.sahrc.org.za](http://www.sahrc.org.za)). This includes a downloadable template which Information Officers can use as a roadmap.

In terms of section 51, the head of a private body must:

- » Update any material changes in the manual on a regular basis;
- » Make the manual available as prescribed by the PAIA at the company offices and on their website;
- » Must annex a request form (PAIA Form C) to the manual and also make request forms available on the website and at all company premises.

The manual must at the very least contain the following information:

REQUIREMENT	DESCRIPTION
Contact details	The postal and street address, phone and fax number and, if available, the e-mail address of the Information Officer of the private company body.
Automatically available information	Some information is readily available without a person having to request access in terms of PAIA. The manual of the private company must indicate which information is readily available.
Records available on request	The Section 51 Manual must list the categories of records which are available upon request.
PAIA procedure	Outline the PAIA procedure to be followed to request access to information from the private company (i.e. Form C).
Company Information	Including the details of the head of the company or the company's CEO (in terms of PAIA the Information Officer of a private company is usually the CEO or head).
Fees	State the request and access fees applicable in terms of PAIA (see Section 3 of the Guide for more information).
Recourse	What remedies are available to requesters if their request for information has been refused
Further Details	Any further details relating to requests for access to records.

## 2.4 Automatically available information held by a public body

A formal request is not required to access all types of information.. Various public bodies are required through other laws to make certain information publicly available. Many institutions will also disclose certain information voluntarily for the sake of transparency, accountability and convenience to the public. To promote the voluntary disclosure of information and to facilitate greater access to this information, Section 15 of PAIA requires all public bodies to publish a list, known as the 'Section 15 notice' or 'voluntary disclosure notice', of all the information relating to that body which is available to anyone automatically.

The Information Officer of a public body must develop a voluntary disclosure notice for the public body and make it available at the offices of the public body as well as publish it in the Government Gazette. The voluntary disclosure notice must be updated every year.

The voluntary disclosure notice contains categories of records and a description of those records that are automatically available:

- » For inspection in terms of any legislation other than PAIA;
- » For purchase or copying from the public body; and
- » From the public body free of charge.

The voluntary disclosure notice must describe how to access the records that are voluntarily disclosed and automatically available. There is no point making a formal request for certain records if those same records are available automatically. In many instances, a fee is required to process a formal request and this may take up to 30 days. This can be avoided if you first consult the voluntary disclosure notice and identify whether or not the record you are seeking is available automatically.

Although it is mandatory for a public body to publish a voluntary disclosure notice, it is not a 'voluntary' action by a public body. The notice is termed a 'voluntary disclosure notice' because it gives notice of all the information that has been voluntarily disclosed, not because it is up to the discretion of the Information Officer whether to publish the list or not.

## 2.5 Automatically available information held by a private body

As with public bodies, private bodies may also hold information that you can access without having to make a formal request. Before making a formal request for information in terms of PAIA which will likely involve a fee and a 30 day waiting period, find out whether this information is available automatically without having to make the formal request.

The head of a private body may, on a voluntary and periodic basis, develop a list of information that is automatically available from the private body without you having to make a formal request. This list is called a 'section 52 notice' or a 'voluntary disclosure notice.'

Unlike public bodies where Information Officers must publish a voluntary disclosure notice, an Information Officer of a private body is not obligated to do so. In terms of PAIA, he/she "may, on a voluntary basis" publish such a list. This is the big difference between the section 52 notice for private bodies and the section 15 notice for public bodies.

The voluntary disclosure notice of a private body contains categories of records and a description of those records that are automatically available:

- » For inspection in terms of any legislation other than PAIA;
- » For purchase or copying from the public body; and
- » From the public body free of charge.

The voluntary disclosure notice must also describe how to access the records that are voluntarily disclosed and automatically available.