



INFORMATION MANUAL

SUPER GROUP LIMITED

("Super Group")

including all its subsidiary companies

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

1. Introduction

Section 32 of the Constitution of the Republic of South Africa, No. 108 of 1996 ("the Constitution") provides:

- **Everyone has the right of access to –**
 - (a) any information held by the state; and
 - (b) any information that is held by another person and that is required for the exercise or protection of any rights.
- **National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.**

The Promotion of Access to Information Act 2 of 2000 ("the Act"), was enacted on 3 February 2002 to give effect to section 32 of the Constitution. Where a request is made in terms of this Act, the private or public body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released.

The Act sets out the requisite procedural issues attached to such request.

2. Who may request information in terms of the Act

Any person who requires information for the exercise or protection of any rights, may request information from Super Group. Section 50 of the Act states that;

- **A requester must be given access to any record held by Super Group if:**
 - (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 this Part

3. Procedures for obtaining access

3.1 Availability of the Manual

This manual is available for inspection at the offices of the Information Officer of Super Group. Further copies are available at the South African Human Rights Commission (SAHRC) and on the Super Group website.

3.2 Head of Super Group

The head of Super Group is Peter Mountford who has delegated this power, for the purposes of the Act, to **Nigel Redford** who shall be referred to as the Information Officer.

3.3 Contact Details

Any person who wishes to request any information from Super Group, with the object of protecting or exercising a right, may contact the Information Officer.

Nigel Redford

(t) +27 11 523 4000
(f) +27 11 523 4856
(e) nigel.redford@supergroup.com

Postal Address: Private Bag X9973
Sandton, 2146

Physical address: 27 Impala Road
Chislehurst, Sandton

Website: www.supergroup.co.za

3.4 Prescribed Access Form

In terms of section 53, a request for access to a record of Super Group must be made, using the prescribed form, to Super Group at the address, fax number or electronic mail address given above. The form requires the requestor to provide the following information:

- o Sufficient information to enable the Information Officer to identify the requestor;
- o Sufficient information to enable the Information Officer to identify the record(s) requested;
- o The form of access required;
- o The requestor's postal address or fax number;
- o Identification of the right sought to be exercised or protected;
- o An explanation of why the record is required to exercise or protect that right;
- o The manner in which the requestor wishes to be informed of the decision on the request, if in a manner in addition to written notification; and
- o If the request is made on behalf of a person, the submission of proof of the capacity in which the requestor makes the request, to the satisfaction of the Information Officer.

For a specimen of the request form see **FORM A** attached to the manual.

Requestors please note that all of the information as listed above should be provided, failing which the process will be delayed while Super Group requests such additional information. The prescribed time periods will not commence until all pertinent information has been furnished to Super Group by the requestor.

3.5 Prescribed fees

Payment of fees is regulated in terms of section 54 of the Act. The Regulations to the Act provide for two types of fees:

Request fee: This is a non-refundable administration fee paid by all requestors with the exclusion of personal requestors. It is paid before the request is considered.

Access fee: This is paid by all requestors only when access is granted. This fee is intended to re-imburse Super Group for the costs involved in searching for a record and preparing it for delivery to the requestor.

Super Group may withhold a record until the request fee and the deposit (if applicable) have been paid. A schedule of the prescribed fees is attached as **FORM B** to the manual.

3.6 Requestor other than Personal Requestor

The Information Officer must give written notice to a requestor other than a personal requestor of the request fee and amount to be paid before the request may be further processed.

If in the Information Officer's opinion the search for a record, or preparation of the record for disclosure will require more than the prescribed hours, the Information Officer may require the requestor to pay a deposit, not being more than one third of the access fee that would be payable if the request is granted. If the request is declined, the deposit must be repaid to the requestor.

The notice given by the Information Officer must advise the requestor that he has a right to apply to court against the payment of the request fee or deposit, and also advise the procedure for the application.

3.7 Personal Requestor

A personal requestor is described in terms of the Act as a requestor seeking access to a record containing information about the requestor. A personal requestor is not liable to pay a request fee, he is liable for payment of access fees in the event of a request being granted, but may not be required to pay a deposit before the granting of the record.

4. HUMAN RIGHTS COMMISSION GUIDELINE

4.1 Section 10 of the Act requires that the SAHRC must compile by 14 August 2003, a guide containing certain information including, inter alia, the objects of the Act, how to obtain access to a manual compiled in terms of section 51 of the Act, the manner and form of a request for access to a record of Super Group and all remedies in law available in the case of a breach of any provision of the Act.

The South African Human Rights Commission's contact details are as follows;

Private Bag 2700
Houghton
2041
Tel: 011 484 8300
Fax: 011 484 7149
e-mail: PAIA@sahrc.org.za
Website: www.sahrc.org.za

5. TYPES OF RECORDS

The requestor may request access to the following types of documents;

5.1 Personnel Records

These include:

- Personal records provided by personnel;
- Records provided by a third party relating to personnel;
- Conditions of employment and other personnel-related contractual and quasi-legal records;
- Internal evaluation records and other internal records
- Correspondence relating to personnel;
- Training schedules and material.

5.2 Customer-related records

A customer includes any natural or juristic entity who receives services from Super Group. Customer-related information includes the following:

- Any records a customer has provided to a third party acting for or on behalf of Super Group;
- Any records a third party has provided to Super Group; and
- Records generated by or within Super Group pertaining to the customer, including transactional records.

5.3 Super Group records

This includes but is not limited to the following:

- Financial records;
- Operational records;
- Databases;
- Information technology;
- Marketing records;
- Internal correspondence;
- Product records;
- Statutory records;
- Internal policies and procedures;
- Records held by officials of Super Group.

5.4 Other Parties

Super Group 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, which can be said to belong to Super Group. The following records fall under this category:

- Personnel, customer or Super Group records which are held by another party as opposed to being held by Super Group; and
- Records held by Super Group 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.

5.5 Records available in terms of other legislation

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

Basic Conditions of Employment Act (75 of 1997)

Companies Act (61 of 1973)

Compensation For Occupational Injuries & Diseases Act (130 Of 1993)

Employment Equity Act (55 of 1998)

Financial Services Board Act (97 Of 1990)

Income Tax Act (58 Of 1962)

Labour Relations Act (66 Of 1995)

Occupational Health And Safety Act (85 Of 1993)

Promotion Of Equality And Prevention Of Unfair Discrimination Act (4 of 2000)

Regional Services Councils Act (109 Of 1985)

Long-term Insurance Act (52 Of 1998)

Skills Development Act (97 Of 1998)

Skills Development Levies Act (9 Of 1999)

VAT Act (89 of 1991)

The Information Officer will take into consideration section 8 of the manual to decide on whether or not access to any of the information stated above should be given to

the requester.

6. DECISION-MAKING PROCESS

- 6.1** In terms of section 55 of the Act, if all reasonable steps have been taken to find a record requested and there are reasonable grounds for believing that the record is in Super Group's possession but can not be found or that 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.

This notice is deemed to be a refusal of the request for access to the record. If, after notice is given, the record in question is found, the requestor must be given access thereto unless a ground for refusal of access exists.

- 6.2** In terms of section 56, the Information Officer must notify, within 30 days after the request has been received or after the particulars required in terms of section 53(2) have been received, the requester of his decision whether or not to grant the request.

If the request is granted, the notice must state the access fee (if any) required to be paid, the form in which access will be given and the procedure to be followed should the requestor wish to apply to court against the access fee to be paid or the form of access granted.

If the request is declined 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 requestor wish to apply to court against the decision.

- 6.3** The Information Officer may extend the initial period of 30 days by a further period not exceeding 30 days if:
- the request is for a large number of records or requires a search through a large number of records and compliance with the original period would unreasonably interfere with the activities of Super Group concerned;
 - the request requires a search for records located in an office of Super Group which is not situated in the same town or city as the office of the head that can not reasonably be completed within the original period;
 - consultation between divisions of Super Group, or with another private body is required to decide upon the request that can not reasonably be completed within the original period; or
 - the requestor consents in writing to the extension.

If the initial period is extended the requester must be notified of that extension within 30 days after the request is received. This notice must state the period of the extension, adequate reasons for the extension (including the provisions of the Act relied upon) and the procedure involved should the requestor wish to lodge an application to court against the extension.

The Information Officer's failure to respond to the requestor within the 30 day period constitutes a deemed refusal of the request.

- 6.4** 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. If access is granted, access must be given in the form that is reasonably required by the requestor, or if the

requestor has not identified a preference, in a form reasonably determined by the Information Officer.

7. THIRD PARTIES

If the request is for a 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 be 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 representation to Super Group 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.

8. GROUNDS FOR REFUSAL OF A REQUEST

Notwithstanding compliance with section 53, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:

8.1 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 for example, where the third party has given his consent to the information.

8.2 In terms of section 64 of the Act, a request for access to a record of a body must be refused if the record contains:

- trade secrets of a third party;
- 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
- 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 product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk or if the third party has consented in terms of section 72 or otherwise in writing to its disclosure.

8.3 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.

8.4 In terms of section 66, the Information Officer must refuse a request for access to a record of Super Group if its disclosure could reasonably be expected to endanger the life or physical safety of an individual.

The Information Officer may refuse a request for access to a record of Super Group if its disclosure would be likely to prejudice or impair – the security of a building structure or system including but not limited to a computer or communication system, a means of transport or any other property; methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme, the safety of the public or the security of the above property.

- 8.5** 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.
- 8.6** Section 68 pertains to records containing information about Super Group itself and unlike the other provisions pertaining to decline of a request, is not mandatory, but rather discretionary. Super Group may refuse access to a record if the record:
- contains trade secrets of Super Group
 - contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of Super Group contains information which, if disclosed, could reasonably be expected to put Super Group at a disadvantage in contractual or other negotiations, or prejudice Super Group in commercial competition; or
 - consists of a computer program owned by Super Group

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.

- 8.7** 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 Super Group itself.

Notwithstanding any of the above-mentioned provisions, section 70 provides that a record must be disclosed if its disclosure would:

- reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and
- if the public interest in the disclosure clearly outweighs the harm.

9. RIGHTS OF APPEAL

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.

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 on any grounds. The court may not, however, disclose the contents of the record(s). The court is empowered to grant any order that is just and equitable, including:

- confirming, amending or setting aside the Information Officer's decision requiring the Information Officer to take any action, or refrain from taking any action as identified by the court within a specified period;
- granting an interdict, interim or special relief, declaratory order or compensation; or
- costs.