



J LESLIE SMITH & COMPANY INC.

INC. NO 1997/003455/21

Attorneys, Conveyancers & Notaries Public
Established 1921

**MANUAL CONTEMPLATED IN TERMS OF
SECTION 51 OF THE
PROMOTION OF ACCESS TO INFORMATION
ACT NO. 2 OF 2000**

1. INTRODUCTION

1.1 PURPOSE OF THE ACT

RECOGNISING *inter alia* THAT:-

Section 32(1)(a) of the Constitution provides that everyone has the right of access to any information held by the state and ;

Section 32(1)(b) of the Constitution provides for the horizontal application of the rights of access to information held by another person to everyone when that information is required for the exercise or protection of any rights.

AND IN ORDER TO :-

foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information;

actively promote a society in which the people of South Africa have effective access to information

The Promotion of Access to Information Act, 2 of 2000 ("the Act") was enacted to give 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.

1.2 MAIN BUSINESS OF J LESLIE SMITH & COMPANY INCORPORATED

J Leslie Smith & Company Incorporated is a firm of Attorneys admitted to practise as such in the High Court of South and governed by *inter alia* The Attorneys Act, 1979.

2. CONTACT PARTICULARS

The Managing Director

332 Loop Street
Pietermaritzburg
3201

P O Box 297
PIETERMARITZBURG
3200

Tel: (033) 8459700

Fax: (033) 8459720

E mail: jls@futurenet.co.za

3. GUIDE IN TERMS OF SECTION 10 OF THE ACT

Any enquiries regarding the guide to be compiled by the South African Human Rights Commission as contemplated in Section 10 of the Act must be directed to :

THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

PAIA UNIT

THE RESEARCH & DOCUMENTATION DEPARTMENT

PRIVATE BAG X2700

HOUGHTON, 2041

TEL : 011 – 484 8300

FAX : 011 – 484 1360

WEBSITE : www.sahrc.org.za

E-MAIL ADDRESS : paia@sahrc.org.za

4. FACILITATION OF A REQUEST FOR ACCESS TO INFORMATION, SUBJECTS ON WHICH J LESLIE SMITH & CO INCORPORATED HOLDS RECORDS AND THE CATEGORIES OF RECORDS HELD

Information which is not readily available as indicated in paragraph 5 of this manual, may be requested in accordance with the procedure prescribed in terms of the Promotion of Access to Information Act.

Copies of the prescribed forms to be completed for submitting a request, are available from J Leslie Smith & Co. Incorporated.

5. Information held:

5.1 INFORMATION / DOCUMENTS AVAILABLE IN ACCORDANCE WITH OTHER LEGISLATION (Section 51(1)(d) of the Act)

J Leslie Smith & Co Incorporated keeps information / documents in accordance with the following legislation (please note that this is not an exhaustive list):-

- Income Tax Act, Act no. 58 of 1962 (Section 75)
- Value-Added Tax Act, Act No. 89 of 1991 (Section 65)
- Unemployment Insurance Act, Act No. 30 of 1966 (Section 32)
- Basic Conditions of Employment Act, Act no. 75 of 1997 (Section 31)
- Employment Equity Act, Act No. 55 of 1998 (Section 26)
- Compensation for Occupational Injuries and Diseases Act, Act No. 130 of 1993 (Section 97)
- Insolvency Act, Act No. 24 of 1936 (Sections 134 and 155)
- Occupational Health and Safety Act, Act No. 85 of 1993
- Attorneys Act, Act No. 53 of 1979
- Skills Development Act, Act No. 97 of 1998

5.2 Professional Affairs

	Subjects	Categories of Information
1.	Details of Employees	<u>Personnel records :</u> - Full names and Identity numbers - Salaries - Benefits - Employment Agreements & Conditions of Employment - Disciplinary & Evaluation Records - Correspondence relating to Personnel - Training material - Requests for Leave - Absence Record

		- Personnel file
2.	Details of clients	Client Records : - Personal particulars - Details of legal work undertaken for clients - Records provided by Clients - Records provided by a Client to a Third Party acting for or on behalf of J LESLIE SMITH & COMPANY INC. - Records provided by Third Parties - Records generated by or within J LESLIE SMITH & COMPANY - Fee Structures & Agreements
3.	Financial details & Administrative matters of J Leslie Smith & Co Inc.	- Financial Records - Insurance Records - Asset Register - Databases - Law Society Records - Internal Correspondence - External Correspondence - Securities - Commercial Agreements

All information shall only be made available subject to the provisions of the Act and subject to Attorney Client privilege.

6. CATEGORIES OF RECORDS: AUTOMATIC DISCLOSURE IN TERMS OF THE ACT

The following categories of information are automatically available from J Leslie Smith & Co Inc. without a person having to request access in terms of the Act:

Nil

7. CATEGORIES OF RECORDS: VOLUNTARY DISCLOSURE IN TERMS OF THE ACT

The requester must use the prescribed form to make the request (Annexure A). No request other than a personal request will be processed without payment of the prescribed request fee (Annexure B).

If a request is granted an access fee must be paid (Annexure B)

The requester will, subject to the Provisions of the Act, be notified within thirty (30) days of receipt of the request whether the request is granted or refused.

8. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

In terms of Section 62 to 69 of the Act access to a record may be refused on one or more of the following grounds: -

- (i) protection of the privacy of a third party who is a natural person
- (ii) protection of the commercial information of a third party
- (iii) protection of certain confidential information of a third party
- (iv) protection of the safety of individuals and the protection of property
- (v) protection of records privileged from production and legal proceedings
- (vi) the commercial information of J LESLIE SMITH & COMPANY INC.
- (vii) the protection of research information of a third party.

Despite any provisions of the Act, a request must be granted if the disclosure of the record would reveal evidence of a substantial contravention of, or failure to comply with, the law or imminent and serious public safety or environmental risks, and the public interest in the disclosure of the record clearly outweighs the harm contemplated (Section 70 of the Act).

9. APPLICATIONS REGARDING DECISIONS OF THE HEAD OF J LESLIE SMITH & COMPANY INCORPORATED

A requester that is dissatisfied with the decision of the Head of J Leslie Smith & Company Incorporated may subject to the provisions of the Act within thirty (30) days of notification of the decision, apply to the Court for appropriate relief.

10. **THE AVAILABILITY OF THIS MANUAL**

This manual is available for inspection at the offices of J Leslie Smith & Company Incorporated free of charge.

Copies of the manual may be obtained, subject to the payment of the prescribed fee at the offices of J Leslie Smith & Company Incorporated (Annexure B).

The manual can also be accessed on the website of the South Africa Human Rights Commission, at the offices of the KwaZulu-Natal Law Society and as published in the Government Gazette.

A copy of the manual may also be inspected on the J Leslie Smith & Company web page at www.jlesliesmith.com

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
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 record must be given below.
- (b) The address and/or fax number in the Republic to which the information is to be sent must be given.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

FULL NAMES AND SURNAME

IDENTITY NUMBER :

POSTAL ADDRESS

FAX NUMBER:

TELEPHONE NUMBER:

E-MAIL ADDRESS:

Capacity in which the 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 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:**
- 2. **Reference number, if available:**

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 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:

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 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) Compliance with your request 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.

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

1. Indicate which right is to be exercised or protected;
2. Explain why the record requested is required for the exercise 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 in another manner 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 _____

**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 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:

	R
(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 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:

	R
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.