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OF SOUTH AFRICA

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## PAIA AND POPIA MANUAL

*This manual was prepared in accordance with sections 14 and 51 of the Promotion of Access to Information Act, 2000 (PAIA) and to address requirements of the Protection of Personal Information Act, 2013 (POPIA).*

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## 1. Introduction

- 1.1 The Promotion of Access to Information Act, 2 of 2000 (PAIA) was enacted on 3 February 2000, giving effect to the constitutional right in terms of section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 108 of 1996 (Constitution) 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 In terms of sections 14 and 51 of PAIA, all public and private bodies are required to compile an Information Manual (“PAIA Manual”).
- 1.3 Where a request is made in terms of PAIA, the body to whom the request is made is obliged to release the information, subject to applicable legislative and / or regulatory requirements, except where PAIA expressly provides that access to the information may be refused.
- 1.4 This manual further incorporates or addresses the requirements of the Protection of Personal Information Act, 2013 (“POPIA”)

## **2. Motor Industry Ombudsman of South Africa (MIOSA)**

- 2.1 The MIOSA is mandated, in terms of the provisions of Section 82(3) of the Consumer Protection Act, 68 of 2008 (CPA) and the ancillary South African Automotive Industry Code of Conduct (Code) to regulate relations between persons conducting business within the automotive industry and to provide for a scheme of alternative dispute resolution between consumers and all participants in the industry and to create an industry Ombud to provide alternative dispute resolution services.
- 2.2 The MIOSA is also mandated in terms of the Code to collect contributions from persons conducting business within the automotive industry.

- 2.3 The MIOSA PAIA and POPIA Manual is available at its premises, Block 14B, CSIR Campus, Meiring Naudé Road, Brummeria, Pretoria, as well as on its website, [www.miosa.co.za](http://www.miosa.co.za). The Manual is available in English, Zulu and Xhosa.
- 2.4 The MIOSA organisation structure is visually conveyed in an organogram, attached to this Manual and marked as Appendix 5.

### **3. Services of the MIOSA**

- 3.1 The MIOSA was established to assist in resolving disputes that arise in terms of the CPA, regarding any goods and/or services provided by the Automotive Industry to such consumers, including suppliers who are in turn also consumers within the industry supply chain.
- 3.2 The Industry Code provides for an Alternative Dispute Resolution process, within the Automotive Industry, and between:
  - 3.2.1 consumers and suppliers;
  - 3.2.2 suppliers themselves, which will, amongst other things, include instances in which (a) a supplier falls within the definition of consumer as envisaged in the Act; and (b) a supplier falls under the threshold as determined by the Regulations to the Act;
  - 3.2.3 supplier and manufacturer; and
  - 3.2.4 consumer and manufacturer.
- 3.3 The objective of the MIOSA is to consider and dispose of complaints in a procedurally fair, informal, economical, and expeditious manner in accordance with the principles of natural justice and by reference to what is equitable in all the circumstances in accordance with the CPA and its Regulations.

4. **Public Involvement in the formulation of policy and the exercise of powers or performance of duties by the MIOSA**

- 4.1 In the exercise of its powers or performance of its duties in terms of PAIA and POPIA, the public are from time to time invited to make representations or to participate or influence the development of Regulations, Industry Codes and/or Guidelines.
- 4.2 Members of the public are encouraged to submit proposals and/or comments for the development of Industry Codes or any legislative reform or representations on any matter affecting the MIOSA, when called upon to do so by public notice.

## **5. Purpose of the Manual**

- 5.1 The purpose of PAIA is to promote the right of access to information, to foster a culture of transparency and accountability within the MIOSA by giving the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect their rights.
- 5.2 In order to promote effective governance of public and private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in relation to public and private bodies.
- 5.3 Section 9 of PAIA recognises that the right to access information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:
  - 5.3.1 Limitations aimed at the reasonable protection of privacy;
  - 5.3.2 Commercial confidentiality; and
  - 5.3.3 Effective, efficient and good governance and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.
- 5.4 POPIA is intended to promote the right to privacy in the Constitution, while at the same time protecting the flow of information and advancing the right of access to and protection of information.

5.5 POPIA establishes the rights and duties that are designed to safeguard personal data. In terms of POPIA, the legitimate needs of the MIOSA to collect and use personal data to execute its mandate are balanced against the right of individuals to have their privacy, in the form of their personal details, respected. This manual sets out the rules and practices which must be followed when processing information and the granting of rights to individuals in respect of their information.

5.6 This PAIA and POPIA Manual complies with the requirements of PAIA and POPIA.

## 6. Contact Details of the Information Officer

Full Names	Leanne Lubbe
Job Title	Operational CEO
Registered Address:	Block 14B, CSIR Campus, Meiring Naudé Road, Brummeria, Pretoria
Postal Address:	Suite 156, Private Bag X025, Lynnwood Ridge, 0040
Telephone Number:	010 590 8378
Email address	info@miosa.co.za
Website:	www.miosa.co.za

## 7. The Information Officer

7.1 PAIA prescribes the appointment of an Information Officer for public bodies where such Information Officer is responsible to, *inter alia*, assess requests for access to information. The head of a private body fulfils such a function in terms of section 51. The MIOSA has opted to appoint an Information Officer to assess such requests for access to information as well as to oversee its required functions in terms of PAIA.

7.2 The Information Officer appointed in terms of the PAIA also refers to the Information Officer as referred to in POPIA. The Information Officer oversees the functions and responsibilities as required for in terms of PAIA as well as the duties and

responsibilities in terms of section 55 of POPIA, after registering with the Information Regulator.

- 7.3 This is in order to render the MIOSA as accessible as reasonably possible for requesters of its records and to ensure fulfilment of its obligations and responsibilities as prescribed in terms of both PAIA and POPIA. All requests for information in terms of PAIA and POPIA must be addressed to the Information Officer.
- 7.4 The Information Officer may appoint, where it is deemed necessary, Deputy Information Officers, as allowed in terms of section 17 of the PAIA as well as section 56 of POPIA.

## **8. Guide of the Information Regulator (Section 10 of PAIA)**

- 8.1 PAIA 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.
- 8.2 Requests in terms of PAIA shall be made in accordance with the prescribed procedures, at the rates provided.
- 8.3 Requesters are referred to the Guide in terms of Section 10 of PAIA, which has initially been compiled by the South African Human Rights Commission and has been updated and amended by the Information Regulator. The purpose of the aforesaid Guide is to provide information that is needed by any person who wishes to exercise any right contemplated in PAIA and POPIA.
- 8.4 The contact details of the Commission are:

<b>Contact body:</b>	<b>The South African Human Rights Commission</b>
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<b>Physical Address:</b>	PAIA Unit 29 Princess of Wales Terrace Cnr York and Andrew Streets Parktown
<b>Postal Address:</b>	Private Bag 2700, Houghton 2041
<b>Telephone Number:</b>	+27 11 877 3600
<b>E-Mail:</b>	PAIA@sahrc.org.za
<b>Web Site:</b>	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>

## 9. The Latest Notice in Terms of Section 52(2) (if any) of PAIA

No notice has been published on the categories of records that are automatically available without a person having to request access in terms of Section 52(2) of PAIA.

## 10. Subjects and Categories of Records Available only on Request to Access

10.1 For the purposes of this clause, “Personnel” refers to any person who works for, or provides services to the MIOSA or on behalf of the MIOSA, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting any part of the operations of the MIOSA. This includes, without limitation, directors (executive and non-executive), permanent, temporary and part-time staff, service providers as well as contract workers. This clause serves as a reference to the categories of information that MIOSA holds. The information is classified and grouped according to records relating to the following subjects and categories:

Subject	Category
Companies Act Records	Documents of Incorporation (MIOSA) Names and addresses of Directors (MIOSA) Memorandum of Incorporation (MIOSA) Minutes of meetings of the Board of Directors (MIOSA) Documents of Incorporation (Industry Participants) Names and addresses of Directors (Industry Participants)

Financial Records	Accounting Records Annual Financial Reports Annual Financial Statements Asset Registers Bank Statements Banking details and bank accounts Banking details (Industry Participants) Banking Records; Debtors lists (Industry Participants) Statements and invoices (Industry Participants) Ledgers General reconciliation Policies and procedures Rental Agreements Tax Returns
Income Tax Records	PAYE Records Documents issued to employees for income tax purposes Records of payments made to SARS on behalf of employees All other statutory compliances: VAT, Levies Skills Development, UIF
Personnel Documents And Records	Address and contact detail lists Disciplinary Policy and Procedure Record of Disciplinary Procedures Employee Benefits Employment Contracts Employment Equity Documents Grievance Procedures Leave Records Medical Aid Records Medical Records Payroll reports Pension Fund Records Safety, Health and Environmental records Salary Records SETA records Organisational policies and codes of conduct Training records Training manuals
Procurement Department	Standard Terms and Conditions for supply of services and products Service Level, Contractor and Supplier Agreements Lists of suppliers, products and services Policies and Procedures.
Risk Management and Audit	Audit reports Risk management frameworks Risk management plans.

IT Department	Computer / mobile device usage policy documentation Disaster Recovery and Business Continuity Plans Hardware asset registers Information Security and General ICT Policy Software licensing System documentation and manuals.
Other documents	Prescribed Complaint Forms and Annexures Record of conciliation process Record of litigation matters Field Inspection reports Annual Reports Electronic Newsletters to Stakeholders General Information Brochures

10.2 Note that the accessibility of the records may be subject to the grounds of refusal set out in this PAIA and POPIA Manual. Amongst other, records deemed confidential on the part of a third party, will necessitate permission from the third party concerned, in addition to normal requirements, before the MIOSA will consider access.

## 11. Records Available without a Request to Access in terms of the PAIA and POPIA

11.1 Records of a public nature may be accessed without the need to submit a formal application.

11.2 Other non-confidential records, such as statutory records maintained at CIPC, may also be accessed without the need to submit a formal application, however, an appointment to view such records must still be made with the Information Officer.

11.3 Records which are available without a person having to request access, are the following:

- Promotion of Access to Information Act 2 of 2000;
- Promotion of Access to Information Amendment Act 54 of 2002;
- Protection of Personal Information Act 4 of 2013;
- Promotion of Access to Information Amendment Act 31 of 2019;
- GG 38107(3), GoN 817, 17 October 2014 (Code of Conduct)
- GG 42110, RG 10897, GoN 1383, 14 Dec 2018 (POPIA:Regulations)

- MIOSA Complaints Form
- PAIA Request for access to records Form 2;
- PAIA Guide;
- PAIA and POPIA Manual;
- Policy on Website Privacy;
- Audited Financial Statements;
- Annual Reports.

**12. Description of the Records of the Body which are available in accordance with any other legislation**

12.1 Where applicable to its operations, the MIOSA also retains records and documents in terms of the legislation below. Unless disclosure is prohibited in terms of legislation, regulations, contractual agreements or otherwise, records that are required to be made available in terms of these acts shall be made available for inspection by interested parties in terms of the requirements and conditions of PAIA. A request to access must be done in accordance with the prescriptions of the PAIA.

- a. Auditing Professions Act, No 26 of 2005;
- b. Basic Conditions of Employment Act, No 75 of 1997;
- c. Broad- Based Black Economic Empowerment Act, No 75 of 1997;
- d. Companies Act, No 71 of 2008;
- e. Compensation for Occupational Injuries & Diseases Act, 130 of 1993;
- f. Competition Act, No.71 of 2008;
- g. Constitution of the Republic of South Africa 2008;
- h. Copyright Act, No 98 of 1978;
- i. Electronic Communications Act, No 36 of 2005;
- j. Electronic Communications and Transactions Act, No 25 of 2002;
- k. Employment Equity Act, No 55 of 1998;
- l. Financial Intelligence Centre Act, No 38 of 2001;
- m. Identification Act, No. 68 of 1997;
- n. Income Tax Act, No 58 of 1962;
- o. Intellectual Property Laws Amendment Act, No 38 of 1997;
- p. Labour Relations Act, No 66 of 1995;
- q. Long Term Insurance Act, No 52 of 1998;
- r. Occupational Health & Safety Act, No 85 of 1993;
- s. Pension Funds Act, No 24 of 1956;
- t. Prescription Act, No 68 of 1969;
- u. Prevention of Organised Crime Act, No 121 of 1998;
- v. Promotion of Access to Information Act, No 2 of 2000;
- w. Protection of Personal Information Act, No. 4 of 2013;
- x. Regulation of Interception of Communications and Provision of Communication

- y. Related Information Act 70 of 2002
- z. Value Added Tax Act 89 of 1991
- aa. Revenue laws Second Amendment Act. No 61 of 2008;
- bb. Skills Development Levies Act No. 9 of 1999;
- cc. Short-term Insurance Act No. 53 of 1998;
- ee. Unemployment Insurance Contributions Act 4 of 2002;
- ff. Unemployment Insurance Act No. 30 of 1966;

*\*Although we have used our best endeavours to supply a list of applicable legislation, it is possible that this list may be incomplete. Whenever it comes to our attention that existing or new legislation allows a Requester access on a basis other than as set out in PAIA or POPIA, we shall update the list accordingly. If a Requester believes that a right of access to a record exists in terms of other legislation listed above or any other legislation, the Requester is required to indicate what legislative right the request is based on, to allow the Information Officer the opportunity of considering the request in light thereof.*

12.2 It is further recorded that the accessibility of documents and records may be subject to the grounds of refusal set out in this Manual.

### **13. Detail to Facilitate a Request for Access to a Record of the MIOSA**

13.1 The requester must comply with all the procedural requirements contained in PAIA and POPIA relating to the request for access to a record.

13.2 The requester must complete the prescribed form enclosed herewith, and submit same as well as payment of the request fee and a deposit (if applicable) to the Information Officer or the Deputy Information Officer (if applicable) at the postal or physical address, fax number or electronic mail address as noted above.

13.3 The prescribed form must be completed with sufficient information to enable the Information Officer to identify:

- 13.3.1 The record or records requested; and
- 13.3.2 The identity of the requester.

13.4 The requester must specify a postal address or email address of the requester in the Republic and indicate which form of access is required;

- 13.5 The requester must state that he/she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. The requester must clearly specify why the record is necessary to exercise or protect such a right.
- 13.6 The MIOSA will process the request within 30 (thirty) days, unless the requester has stated special reasons to the satisfaction of the Information Officer that circumstances dictate that the above time periods not be complied with.
- 13.7 The requester shall be advised whether access is granted or denied in writing. If, in addition, the requester requires the reasons for the decision in any other manner, the requester will be obliged to state which manner and the particulars required.
- 13.8 If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer, subject to the provisions of PAIA and POPIA.
- 13.9 If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 13.10 The requester must pay the prescribed fee, before any further processing can take place.
- 13.11 All information as listed in this clause shall be provided, failing which the process will be delayed until the required information is provided. The prescribed time periods will not commence until the requester has furnished all the necessary and required information. The Information Officer shall sever a record, if possible, and grant only access to that portion requested and which is not prohibited from being disclosed.

#### **14. Grounds to Refuse Access to Records**

- 14.1 The MIOSA is entitled to refuse a request for information.
- 14.2 The main grounds for the MIOSA to refuse a request for information relates to the:

- 14.2.1 Mandatory protection of the privacy of a third party who is a natural person or a deceased person (section 63 of PAIA) or a juristic person, as included in POPIA, which would involve the unreasonable disclosure of personal information of that natural or juristic person;
- 14.2.2 Mandatory protection of personal information and the disclosure of personal information in compliance with the provisions of POPIA, in addition to any other legislative, regulatory or contractual obligations;
- 14.2.3 Mandatory protection of the commercial information of a third party (section 64 of PAIA) if the record contains:
  - i. Trade secrets of the relevant third party;
  - ii. Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the relevant third party;
  - iii. Information disclosed in confidence by a third party to the MIOSA, if the disclosure could place that third party at a disadvantage in negotiations or commercial competition;
- 14.2.4 Mandatory protection of confidential information of third parties (section 65 of PAIA) if it is protected in terms of any agreement;
- 14.2.5 Mandatory protection of the safety of individuals and the protection of property (section 66 of PAIA);
- 14.2.6 Mandatory protection of records which would be regarded as privileged in legal proceedings; or
- 14.2.7 The operational activities of the MIOSA, which may include:
  - i. Financial, scientific or technical information which disclosure may cause harm to the financial position or interest of the MIOSA;

- ii. A computer program or application which was developed for the MIOSA, and which is protected by copyright;
- iii. Research information of the MIOSA or a third party, if its disclosure would disclose the identity of the researcher or the subject matter of the research and would place the research at a serious disadvantage;
- iv. Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.

14.3 All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation.

14.4 If a requested record cannot be found or if the record does not exist, the Information Officer shall, by way of an affidavit or affirmation, notify the requester that it is not possible to give access to the requested record. Such a notice will be regarded as a decision to refuse a request for access to the record concerned for the purpose of PAIA and POPIA. If the record should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form, unless the Information Officer refuses access to such record.

## **15. Remedies available when the MIOSA refuses a request**

### ***Internal Remedies***

15.1 Section 74 of PAIA allows for appeals against the decision of the Information Officer of the MIOSA and the appeal processes (which are not compulsory) are detailed below.

15.2 A requester may lodge an internal appeal against a decision of the Information Officer or Deputy Information Officer on the following grounds:

- 15.2.1 Refusal to grant access to the records;
- 15.2.2 The tender or payment of the request fee in terms of section 22(1) of PAIA;
- 15.2.3 The access fee to be paid is too excessive;

- 15.2.4 The tender or payment of a deposit in terms of section 22(2) of PAIA;
- 15.2.5 The decision of the Information Officer to grant a request for access;
- 15.2.6 An extension of period in terms of section 26(1) of PAIA;
- 15.2.7 Refusal to grant access to records in a particular form, requested, in terms section 29(3) of PAIA;
- 15.2.8 Failure to disclose records; or
- 15.2.9 Refusal to grant request to waive the fees.

15.3 A requester must lodge an internal appeal by completing Form 4. Form 4, attached hereto as Appendix 6, must be submitted to the same Information Officer or Deputy information Officer that made the original decision, who is then required to forward it to the Ombudsman within ten (10) working days after receipt of the internal appeal, together with his or her reasons for the decision concerned; and the name, postal address, phone and fax number and electronic mail address, whichever is available, of any third party that must be notified of the request, in terms of section 47 (1) of PAIA.

15.4 Form 4 must be delivered or sent to the Information Officer or Deputy information Officer's address by hand or designated electronic mail address, as stipulated in this manual, within 60 days after the decision was taken or within 30 days after notice is given to the third party of the decision appealed against.

15.5 The Ombudsman may, upon good cause shown, allow the late delivery of an internal appeal. If the Ombudsman is not satisfied with the reasons advanced for late delivery of the appeal, the request will be disallowed on written notice to the person that lodged the internal appeal.

15.6 The Ombudsman must process and decide on the internal appeal within thirty (30) days from the date in which the internal appeal was received by the Information Officer or Deputy Information Officer.

### **External Remedies**

- 15.7 A requester or third party may only submit a complaint to the Regulator after the requester or third party has exhausted the internal appeal procedure against a decision of the Information Officer of the MIOSA. A complaint to the Information Regulator by a requester or third party must be lodged within 180 days of receipt of the decision from the body. A Information complaint to the Regulator must be made in writing and a complaint form must be completed, either manually or online. A complaint form, Form 5, can be downloaded from the Information Regulator's website, <https://www.justice.gov.za/inforeg/>.
- 15.8 A requester or a third party has may refer a decision either to the Information Regulator or the Court. Whilst one is not compelled to approach the Information Regulator before approaching the Court, it is advisable that one should consider approaching the Information Regulator, as the Information Regulator has extensive and quick dispute resolution mechanisms, as opposed to the Court.
- 15.9 A requester or a third party cannot approach the Court if a compliant is still pending with the Information Regulator.
- 15.10 A requester, third party, or a body, may apply to court to have any of the decisions they are aggrieved by reviewed by the Court. An application to Court under PAIA is done through civil proceedings, and should be used as a last resort.
- 15.11 An application may be brought in accordance with the procedure set out in Rule 53 of the High Court Rules or in terms of Rule 55 of the Magistrates' Court Rules if no records have or an incomplete record has been furnished. The requester or third party may, by way of an application, within 180 days apply to a court for appropriate relief.

### **16. Access to Records Held by the MIOSA**

- 16.1 Prerequisites for Access by Personal/Other Requester

- 16.1.1 Records held by the MIOSA may be accessed by requests only once the prerequisite requirements for access have been met.
- 16.1.2 A requester is any person making a request for access to a record of the MIOSA. There are two types of requesters:
  - (a) Personal Requester
    - i. A personal requester is a requester who is seeking access to a record containing personal information about the requester.
    - ii. The MIOSA will voluntarily provide the requested information or give access to any record, or part of a record, with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.
  - (b) Other Requester
    - i. This requester (other than a personal requester) is entitled to request access to information on third parties.
    - ii. In considering such a request, the MIOSA will adhere to the provisions of PAIA and POPIA.
- 16.2 The Information Officer shall take all reasonable steps, to inform a third party to whom the requested record relates of the request, informing him/her that he/she may make written or oral representations to the Information Officer regarding the refusal of the request or, where required, give written consent for the disclosure of the information.
- 16.3 The MIOSA is not obliged to grant access to such records. The requester must fulfil the prerequisite requirements, in accordance with the requirements of the PAIA and POPIA, including the payment of a request and access fee.

## 17. Prescribed Fees (Section 51(1)(f) of PAIA)

17.1 When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee, before further processing of the request (section 54(1)).

17.2 If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Information Officer shall notify the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.

17.3 The Information Officer shall withhold a record until the requester has paid the fees as indicated below.

17.4 If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the requester.

17.5 A fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of PAIA, or an exclusion is determined by the Minister in terms of section 54(8).

The applicable access fees which will be payable are:

	Description	Amount
1.	The request <b>fee</b> payable by every requester	R140.00
2.	Photocopy/printed black & white copy of A4-size page	R2.00 per page or part thereof.
3.	Printed copy of A4-size page	R2.00 per page or part thereof.
4.	For a copy in a computer-readable form on:	
	(i) Flash drive (to be provided by requestor)	R40.00
	(ii) Compact disc	
	• If provided by requestor	R40.00
	• If provided to the requestor	R60.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6.	Copy of visual images	
7.	Transcription of an audio record, per A4-size page	R24.00
8.	Copy of an audio record on:	
	(i) Flash drive (to be provided by requestor)	R40.00
	(ii) Compact disc	
	• If provided by requestor	R40.00
	• If provided to the requestor	R60.00
9.	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of	R145.00 R435.00
10.	Deposit: If search exceeds 6 hours	One third of amount per request calculated in terms of items 2 to 8.
11.	Postage, e-mail or any other electronic transfer	Actual expense, if any.".

- 17.6 All fees are subject to change as allowed for in PAIA and as a consequence such escalations may not always be immediately available at the time of the request being made. Requesters shall be informed of any changes in the fees prior to making a payment.

## **18. Decision**

### **18.1 *Time allowed to the MIOSA***

- 18.1.1 The MIOSA will, within 30 (thirty) days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.
- 18.1.2 The 30 (thirty) day period within which the MIOSA has to decide whether to grant or refuse the request, may be extended for a further period of not more than (30) thirty days, if the request is for a large number of information, or the request requires a search for information held at another location and the information cannot reasonably be obtained within the original 30 (thirty) day period.
- 18.1.3 The MIOSA will notify the requester in writing should an extension be sought.

## **19. Protection of Personal Information that is processed by the MIOSA**

- 19.1 Chapter 3 of POPIA provides for the minimum conditions for lawful processing of Personal Information by a responsible party. These conditions may not be derogated from unless specific exclusions apply as outlined in POPIA.

- 19.2 The MIOSA obtains, processes and further processes Personal Information relating to both individual and juristic persons in order to carry out its operations and organisational functions. The manner in which this information is processed and the purpose for which it is processed is determined by the MIOSA. The MIOSA is accordingly a responsible party for the purposes of POPIA and will ensure that the Personal Information of a data subject:
  - 19.2.1 Is processed lawfully, fairly and transparently. This includes the provision of appropriate information to data subjects when their data is collected by the MIOSA, in the form of privacy or data collection notices. The MIOSA must also have a legal basis (for example, an obligation by law) to process Personal Information;
  - 19.2.2 Is processed only for the purposes for which it was collected;
  - 19.2.3 Will not be processed for a secondary purpose unless that processing is compatible with the original purpose.
  - 19.2.4 Is adequate, relevant and not excessive for the purposes for which it was collected;
  - 19.2.5 Is accurate and kept up to date;
  - 19.2.6 Will not be kept for longer than necessary;
  - 19.2.7 Is processed in accordance with integrity and confidentiality principles; this includes physical and organisational measures to ensure that Personal Information, in both physical and electronic form, are subject to an appropriate level of security when stored, used and communicated by the MIOSA, in order to protect against access and acquisition by unauthorised persons and accidental loss, destruction or damage;
  - 19.2.8 Is processed in accordance with the rights of data subjects, where applicable. Data subjects have the right to:

- (a) Be notified that their Personal Information is being collected by the MIOSA. The data subject also has the right to be notified in the event of a data breach;
- (b) Know whether the MIOSA holds Personal Information about them, and to access that information. Any request for information must be handled in accordance with the provisions of this Manual;
- (c) Request the correction or deletion of inaccurate, irrelevant, excessive, out of date, incomplete, misleading or unlawfully obtained personal information;
- (d) Object to the MIOSA's use of their Personal Information and request the deletion of such Personal Information (deletion would be subject to the MIOSA's record keeping requirements and mandate); and
- (e) Complain to the Information Regulator regarding an alleged infringement of any of the rights protected under POPIA and to institute civil proceedings regarding the alleged non-compliance with the protection of his, her or its personal information.

#### 19.3 Purpose of the processing of Personal Information by the MIOSA

As outlined above, Personal Information may only be processed for a specific purpose. The purpose for which the MIOSA collects, processes or further processes Personal Information is detailed in paragraph 2 above.

#### 19.4 A data subject may either be a natural or a juristic person. Part 1 of Appendix 2 sets out the various categories of data subjects that the MIOSA processes Personal Information on and the types of Personal Information relating thereto.

#### 19.5 Recipients of Personal Information

Part 2 of Appendix 2 outlines the recipients to whom the MIOSA may provide a data subject's Personal Information to.

## 19.6 Cross-border flows of Personal Information

19.6.1 POPIA provides that Personal Information may only be transferred out of the Republic of South Africa if:

- (a) The recipient country can offer such data an "adequate level" of protection.; or
- (b) The recipient country has provided appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available; or
- (c) The recipient country is in a jurisdiction which is subject to a law that provides substantially the same or similar level of protection to a data subject as in POPIA.

19.6.2 Part 3 of Appendix 2 sets out the planned cross-border transfers of Personal Information and the condition from above that applies thereto.

## 19.7 Justifications for the use of Personal Information

The MIOSA will only process personal information if the below mentioned conditions are met:

- 19.7.1 The person is told why the processing is necessary, what information is required and what will be done with it;
- 19.7.2 The person consents to the processing, which consent will be obtained at the time when that person's personal information is processed;
- 19.7.3 The processing is necessary i.e. in order to conduct an accurate analysis of that person's needs for purposes of amongst other employment reasons, medical aid requirements;
- 19.7.4 The processing is required as a result of or in order to comply with an obligation imposed by law;

- 19.7.5 The processing protects a legitimate interest of the person and it is in the person's best interest; or
- 19.7.6 Processing is necessary for pursuing the legitimate interests of the MIOSA or of a third party to whom the personal information is supplied.

19.8 Description of information security measures to be implemented by the MIOSA

Part 4 of Appendix 2 sets out the types of security measures to be implemented by the MIOSA in order to ensure that Personal Information is respected and protected. A preliminary assessment of the suitability of the information security measures implemented or to be implemented by the MIOSA may be conducted in order to ensure that the Personal Information that is processed by the MIOSA is safeguarded and processed in accordance with the conditions for lawful processing.

19.9 Objection to the Processing of Personal Information by a Data Subject

Section 11 (3) of POPIA and regulation 2 of the POPIA Regulations provide that a Data Subject may, at any time object to the Processing of his/her/its Personal Information in the prescribed form attached to this manual as Appendix 3 subject to exceptions contained in POPIA and the MIOSA mandate.

19.10 Request for correction or deletion of Personal Information

Section 24 of POPI and regulation 3 of the POPI Regulations provide that a Data Subject may request for their Personal Information to be corrected/deleted in the prescribed form attached as Appendix 4 to this Manual, subject to exceptions contained in POPIA and the MIOSA mandate.

## 20. Availability and Updating of the Manual

This manual was prepared in compliance with both PAIA and POPIA and the MIOSA will update this manual at such intervals as may be deemed necessary.

This manual is available to view at the MIOSA premises and on its website.



**21. Appendix 1: Access Request Form****FORM 2****REQUEST FOR ACCESS TO RECORD**

[Regulation 7]

**NOTE:**

1. *Proof of identity must be attached by the requester.*
2. *If requests made on behalf of another person, proof of such authorisation, must be attached to this form.*

**TO:** The Information Officer


(Address)

E-mail address:

--

Fax number:

--

*Mark with an "X"*

Request is made in my own name

Request is made on behalf of another person.

**PERSONAL INFORMATION**

Full Names			
Identity Number			
Capacity in which request is made (when made on behalf of another person)			
Postal Address			
Street Address			
E-mail Address			
Contact Numbers	Tel. (B):		Facsimile:
	Cellular:		
Full names of person on whose behalf request is made (if applicable):			
Identity Number			
Postal Address			



Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		

**PARTICULARS OF RECORD REQUESTED**

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. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)

Description of record or relevant part of the record:	
Reference number, if available	
Any further particulars of record	

**TYPE OF RECORD**

(Mark the applicable box with an "X")

Record is in written or printed form	
Record comprises virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc)	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	

<b>FORM OF ACCESS</b> (Mark the applicable box with an "X")	
Printed copy of record (including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)	<input type="checkbox"/>
Written or printed transcription of virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc)	<input type="checkbox"/>
Transcription of soundtrack (written or printed document)	<input type="checkbox"/>
Copy of record on flash drive (including virtual images and soundtracks)	<input type="checkbox"/>
Copy of record on compact disc drive (including virtual images and soundtracks)	<input type="checkbox"/>
Copy of record saved on cloud storage server	<input type="checkbox"/>

<b>MANNER OF ACCESS</b> (Mark the applicable box with an "X")	
Personal inspection of record at registered address of public/private body (including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)	<input type="checkbox"/>
Postal services to postal address	<input type="checkbox"/>
Postal services to street address	<input type="checkbox"/>
Courier service to street address	<input type="checkbox"/>
Facsimile of information in written or printed format (including transcriptions)	<input type="checkbox"/>
E-mail of information (including soundtracks if possible)	<input type="checkbox"/>
Cloud share/file transfer	<input type="checkbox"/>
Preferred language (Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)	<input type="checkbox"/>

<b>PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED</b>	
<i>If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.</i>	
Indicate which right is to be exercised or protected	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>



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

<b>FEES</b>	
a)	<i>A request fee must be paid before the request will be considered.</i>
b)	<i>You will be notified of the amount of the access fee to be paid.</i>
c)	<i>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.</i>
d)	<i>If you qualify for exemption of the payment of any fee, please state the reason for exemption</i>
Reason	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

<b>Postal address</b>	<b>Facsimile</b>	<b>Electronic communication (Please specify)</b>

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

*Signature of Requester / person on whose behalf request is made*

---

**FOR OFFICIAL USE**

<b>Reference number:</b>	
<b>Request received by:</b> (State Rank, Name And Surname of Information Officer)	
<b>Date received:</b>	
<b>Access fees:</b>	
<b>Deposit (if any):</b>	

*Signature of Information Officer*

**22. Appendix 2: Part 1 - Categories of Data Subjects and Categories of Personal Information relating thereto**

Subject	Category
Companies Act Records	Documents of Incorporation (MIOSA) Names and addresses of Directors (MIOSA) Memorandum of Incorporation (MIOSA) Minutes of meetings of the Board of Directors (MIOSA) Documents of Incorporation (Industry Participants) Names and addresses of Directors (Industry Participants)
Financial Records	Accounting Records Annual Financial Reports Annual Financial Statements Asset Registers Bank Statements Banking details and bank accounts Banking details (Industry Participants) Banking Records; Debtors lists (Industry Participants) Statements and invoices (Industry Participants) Ledgers General reconciliation Policies and procedures Rental Agreements Tax Returns
Income Tax Records	PAYE Records Documents issued to employees for income tax purposes Records of payments made to SARS on behalf of employees All other statutory compliances: VAT, Levies Skills Development, UIF

Personnel Documents And Records	Address and contact detail lists Disciplinary Policy and Procedure Record of Disciplinary Procedures Employee Benefits Employment Contracts Employment Equity Documents Grievance Procedures Leave Records Medical Aid Records Medical Records Payroll reports Pension Fund Records Safety, Health and Environmental records Salary Records SETA records Organisational policies and codes of conduct Training records Training manuals
Procurement Department	Standard Terms and Conditions for supply of services and products Service Level, Contractor and Supplier Agreements Lists of suppliers, products and services Policies and Procedures.
Risk Management and Audit	Audit reports Risk management frameworks Risk management plans.
IT Department	Computer / mobile device usage policy documentation Disaster Recovery and Business Continuity Plans Hardware asset registers Information Security and General ICT Policy Software licensing System documentation and manuals.
Other documents	Prescribed Complaint Forms and Annexures Record of conciliation process Record of litigation matters Field Inspection reports Annual Reports Electronic Newsletters to Stakeholders General Information Brochures

### **23. Appendix 2: Part 2 - Recipients of Personal Information**

- a. Any firm, organisation or person that the MIOSA uses to collect contributions or to provide a service on its behalf;
- b. Any firm, organisation or person that/who provides the MIOSA with products or services;
- c. Any payment system the MIOSA uses;
- d. Regulatory and governmental authorities, or other authorities, including tax authorities, where the MIOSA has a duty to share information;
- e. Third parties to whom payments are made on behalf of employees;
- f. Financial institutions from whom payments are received on behalf of data subjects;
- g. Any other operator not specified; and/or
- h. Employees, contractors and temporary staff;

### **24. Appendix 2: Part 3 – Cross border transfers of Personal Information**

Personal Information may be transmitted transborder to MIOSA's suppliers in other countries, and Personal Information may be stored in data servers hosted outside South Africa. The MIOSA will endeavour to ensure that its suppliers and service providers will make all reasonable efforts to secure the said data and Personal Information.

### **25. Appendix 2: Part 4 – Description of information security measures**

The MIOSA undertakes to institute and maintain the data protection measures to accomplish the following objectives outlined below. The details given are to be interpreted as examples of how to achieve an adequate data protection level for each objective. The MIOSA may use alternative measures and adapt to technological security development, as needed, provided that the objectives are achieved.

#### **1. Access Control of Persons**

The MIOSA shall implement suitable measures in order to prevent unauthorised persons from gaining access to the data processing equipment where the data are processed.

**2. *Data Media Control***

The MIOSA undertakes to implement suitable measures to prevent the unauthorised manipulation of media, including reading, copying, alteration or removal of the data media used by the MIOSA and containing personal data of data subjects.

**3. *Data Memory Control***

The MIOSA undertakes to implement suitable measures to prevent unauthorised input into data memory and the unauthorised reading, alteration or deletion of stored data.

**4. *User Control***

The MIOSA shall implement suitable measures to prevent its data processing systems from being used by unauthorised persons by means of data transmission equipment.

**5. *Access Control to Data***

The MIOSA represents that the persons entitled to use the MIOSA's data processing system are only able to access the data within the scope and to the extent covered by their respective access permissions (authorisation).

**6. *Transmission Control***

The MIOSA shall be obliged to enable the verification and tracing of the locations / destinations to which the personal information is transferred by utilisation of the MIOSA's data communication equipment / devices.

**7. *Transport Control***

The MIOSA shall implement suitable measures to prevent Personal Information from being read, copied, altered or deleted by unauthorised persons during the transmission thereof or during the transport of the data media.

**8. *Organisation Control***

The MIOSA shall maintain its internal organisation in a manner that meets the requirements of this Manual.

**26. Appendix 3: Objection to the Processing of Personal Information in terms of Section 11(3) of the Protection of Personal Information Act, 2013 and Regulations relating to the Protection of Personal Information, 2018**

- 1 Affidavits or other documentary evidence as applicable in support of the objection may be attached.
- 2 If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.
- 3 Complete as is applicable

<b>A</b>	<b>DETAILS OF DATA SUBJECT</b>
Name(s) and surname/ registered name of data subject:	
Unique Identifier/ Identity Number	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
<b>B</b>	<b>DETAILS OF RESPONSIBLE PARTY</b>
Name(s) and surname/ registered name of data subject:	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
<b>C</b>	<b>REASONS FOR OBJECTION</b> <b>(Please provide detailed reasons for the objection)</b>

Signed at ..... this ..... day of ..... 20...

.....  
 Signature of data subject/designated person

**27. Appendix 4: Request for Correction or Deletion of Personal Information or Destroying or Deletion of Record of Personal Information in terms of Section 24(1) of the Protection of Personal Information Act, 2013 and the Regulations relating to the Protection of Personal Information, 2018**

1. Affidavits or other documentary evidence as applicable in support of the request may be attached.
2. If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.
3. Complete as is applicable.

Mark the appropriate box with an "x". Request for:

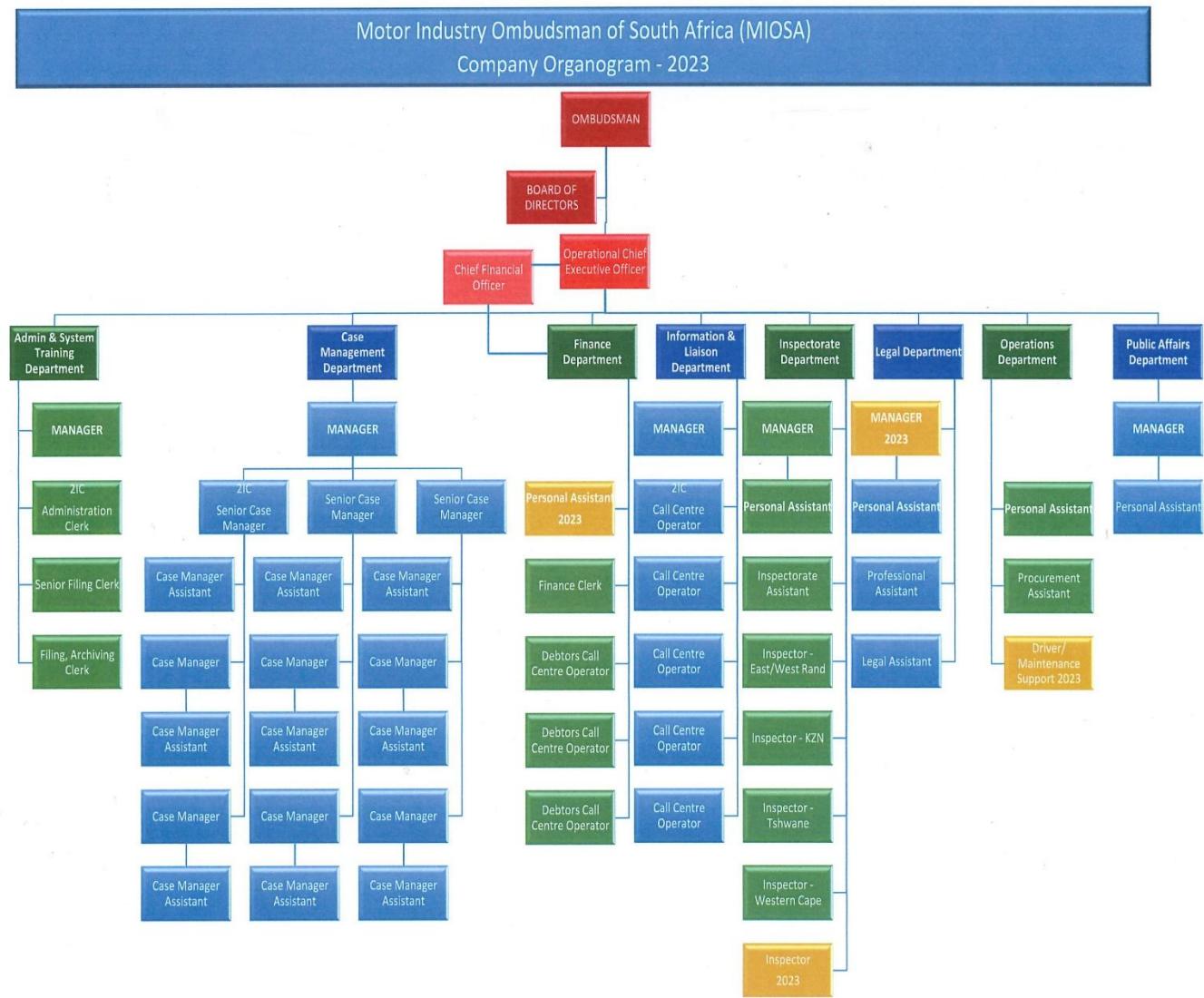
- Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.
- Destroying or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information

<b>A</b>	<b>Details of Data Subject</b>
Name(s) and surname/ registered name of data subject:	
Unique Identifier/ Identity Number	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	
<b>B</b>	<b>DETAILS OF RESPONSIBLE PARTY</b>
Name(s) and surname/ registered name of data	
Residential, postal or business address:	
Contact number(s):	
Fax number / E-mail address:	

<b>C</b>	Reasons for Objection (Please Provide Detailed Reasons for The Objection)
<b>D</b>	Reasons for *Correction or Deletion of the Personal Information about the Data Subject in Terms of Section 24(1)(a) which is in Possession or Under the Control of the Responsible Party; and or Reasons for *Destruction or Deletion of a Record of Personal Information about the Data Subject in Terms of Section 24(1)(b) which the Responsible Party is no longer Authorised to Retain. (Please Provide Detailed Reasons for the Request)



## 28. Appendix 5: The MIOSA Organogram



**29. Appendix 6: FORM 4 (Regulation 9)**

**INTERNAL APPEAL FORM**

**FORM 4**

[Regulation 9]

Reference Number: .....

<b>PARTICULARS OF PUBLIC BODY</b>					
Name of Public Body					
Name and Surname of Information Officer:					
<b>PARTICULARS OF COMPLAINANT WHO LODGES THE INTERNAL APPEAL</b>					
Full Names					
Identity Number					
Postal Address					
Contact Numbers	Tel. (B)		Facsimile		
	Cellular				
E-Mail Address					
Is the internal appeal lodged on behalf of another person?				Yes	No
If answer is "yes", capacity in which an internal appeal on behalf of another person is lodged: ( <i>Proof of the capacity in which appeal is lodged, if applicable, must be attached.</i> )					
<b>PARTICULARS OF PERSON ON WHOSE BEHALF THE INTERNAL APPEAL IS LODGED (If lodged by a third party)</b>					
Full Names					
Identity Number					
Postal Address					
Contact Numbers	Tel. (B)		Facsimile		
	Cellular				
E-Mail Address					



<b>DECISION AGAINST WHICH THE INTERNAL APPEAL IS LODGED</b> (mark the appropriate box with an "X")	
Refusal of request for access	<input type="checkbox"/>
Decision regarding fees prescribed in terms of section 22 of the Act	<input type="checkbox"/>
Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act	<input type="checkbox"/>
Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester	<input type="checkbox"/>
Decision to grant request for access	<input type="checkbox"/>
<b>GROUNDS FOR APPEAL</b> (If the provided space is inadequate, please continue on a separate page and attach it to this form. all the additional pages must be signed)	
State the grounds on which the internal appeal is based:	
State any other information that may be relevant in considering the appeal:	

You will be notified in writing of the decision on your internal appeal. Please indicate your preferred manner of notification:

Postal address	Facsimile	Electronic communication (Please specify)

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

*Signature of Appellant/Third party*

**FOR OFFICIAL USE**  
**OFFICIAL RECORD OF INTERNAL APPEAL**

Appeal received by: (state rank, name and surname of Information Officer)			
Date received:			
Appeal accompanied by the reasons for the information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer:		Yes	
		No	
<b>OUTCOME OF APPEAL</b>			
Refusal of request for access. Confirmed?	Yes		New decision (if not confirmed)
	No		
Fees (Sec 22). Confirmed?	Yes		New decision (if not confirmed)
	No		
Extension (Sec 26(1)). Confirmed?	Yes		New decision (if not confirmed)
	No		
Access (Sec 29(3)). Confirmed?	Yes		New decision (if not confirmed)
	No		
Request for access granted. Confirmed?	Yes		New decision (if not confirmed)
	No		

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

**Relevant Authority**