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BLUE ANCHOR RISK SOLUTIONS (PTY) LTD

PROMOTION OF ACCESS TO INFORMATION ACT

ACT NO.2 OF 2000

MANUAL

2024

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1. Introduction

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

1. *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.*
2. *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, No.2 of 2000 ("the Act"), was enacted on 3 February 2002 to give effect to section 32 of the constitution, that is giving 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.

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 issued attached to such request.

The Act came into effect on 9 March 2001 with the exception of sections 10, 14, 16 and 51 that were brought into operation on 15 February 2002.

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 a private body. Section 50 of the Act states that:

1. *a requester must be given access to any record of a private body 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 Contact Details

Any person who wishes to request any information from "BARS" with the aim of protecting or exercising a right may contact the information officer whose contact details as follows:

Director

17 The Colonnades

Saffier Street

Jukskei Park

Phone Number: 011 704 2768

Email: info@barisks.co.za

3.2 Prescribed Access Form

In terms of section 53, a request for access to a record of “BARS” must be made in the prescribed form to “BARS” at the address or electronic mail address given above. The former requires the requester to provide the following information:

- *Sufficient information to enable the information officer to identify the requester;*
- *Sufficient information to enable the information officer to identify the record(s) requested;*
- *The form of access required;*
- *The requestor’s address or electronic mail address;*
- *Identification of the right sought to be exercised or protected;*
- *An explanation on why the record is required to exercise or protect that right;*
- *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*
- *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.*

Refer to **Annexure A** to this manual for the format of the prescribed form.

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

3.3 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 reimburse the private body for the costs involved in searching for a record and preparing it for delivery to the requestor*

“BARS” does not charge fees for reasonable requests.

4. Human Rights Commission Guideline

In terms of section 10 of the Act, the Human Rights Commission must compile a guide by 14 August 2003. This guide is intended to assist users in the interpretation of the Act. The guide will contain a description of the aims of the Act, the contact details of the information officers of all the public bodies, particulars of the public bodies, the manner of access to the records of those public bodies and the remedies available in law regarding a breach of any of the provisions 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 1360

Website: www.sahrc.org.za

5. Categories of records

5.1 Human Resources Division

Records found in this division contain information of employees that include the following:

- *Any personal records provided to "BARS" by the employee*
- *Any records a third party has provided to "BARS" about its employee*
- *Conditions of employment and other personnel-related contractual and legal records*
- *Internal evaluation records*
- *Other internal records and correspondence related to the particular employee*

5.2 Client-related records

Clients include both juristic and natural entities that receive a service from "BARS". This information includes:

- *Any records a client has provided to a third party acting for and on behalf of "BARS";*
- *Any records a third party has provided to "BARS"; and*
- *Records generated by or within "BARS" pertaining to the client, including transactional records*

5.3 Blue Anchor Records

This category of records relates, but is not limited to, the following information:

- *Financial records*
- *Operational records*
- *Databases*
- *Information technology*
- *Marketing records*
- *Internal correspondence*
- *Product records*
- *Statutory records*
- *Internal policies and procedures*

Each request will be evaluated on its own merits. If any record falls within any of the categories of exemptions, then such a request will be refused.

5.4 Other Parties

“BARS” may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies and service providers. Alternatively, such other parties may possess records that can be said to belong to “BARS”.

The following records fall under this category:

- *Personnel, client or “BARS” records which are held by another party as opposed to being held by “BARS” and;*
- *Records held by “BARS” 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 contractors/suppliers.*

5.5 Records available in terms of other legislation

The requestor may also request information that is available in terms of legislation such as the following:

- *Basic Conditions of Employment Act (Act No. 75 of 1997)*
- *Compensation of Occupational Injuries & Diseases Act (Act No. 130 of 1993)*
- *Employment Equity Act (Act No. 55 of 1998)*
- *Labour Relations Act (Act No. 66 of 1995)*
- *Occupational Health and Safety Act (Act No. 85 of 1993)*
- *Promotion of Equality and Prevention of Unfair Discrimination Act (Act No. 4 of 2000)*
- *Skills Development Act (Act No. 97 of 1998)*
- *Skills Development Levies Act (Act No. 9 of 1999)*
- *South African Qualifications Authority Act (Act No. 58 of 1995)*

In terms of the above legislation, information relating to personnel may be requested.

- *Companies Act (Act No. 61 of 1973)*
- *Short-term Insurance Act (Act No. 53 of 1998)*
- *Financial Markets Control Act (Act No. 55 of 1989)*
- *Financial Services Board Act (Act No. 97 of 1990)*

Records relating to company reporting and Company related records as far as is allowed in terms of these Acts may be requested.

- *Income Tax Act (Act No. 58 of 1962 as amended)*
- *VAT Act (Act No. 89 of 1991)*
- *Records relating to tax, employees and the company may be requested in terms of the above Acts.*

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, the information officer will take all reasonable steps to find a record that has been requested. If the records cannot be found or does not exist, the information officer must notify the requestor by way of affidavit or affirmation, that it is not possible to give access to the record. This is deemed to be a refusal of the request. If, the request would other wise have been granted.

6.2 Section 56 provides that the information officer must within 30 days of receipt of a correctly completed request, notify the requestor of the decision as to whether or not to grant the request.

If the request is:

- Granted: the notification must state the form in which access will be given
- Declined: the notification 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 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;
- The request requires a search of records located in a different office of Blue Anchor Risk Solutions (Pty) Ltd not situated in the same city;
- Consultation between divisions of “BARS”, or with another private body is required; or
- The requestor consents to the extension

The requestor must be notified within the initial 30 day period in writing of the extension, together with reasons, and the procedure involved should the requestor which to apply to the 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 “BARS” 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 hi/her/its right to appeal against the decision by way of application to court within 30 days of the notice.

8. Grounds for Refusal of a Request

Notwithstanding compliance with section 50, 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 person. However Section 63(2) does not provide exceptions to this.

8.2 Section 64 states that a request must be refused if it relates to records containing third party information pertaining to:

- *Trade secrets;*
- *Financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interest 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 of environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

8.3 Section 65 prohibits disclosure of information if such disclosure would constitute a breach of any duty or confidentiality owed to a third party in terms of an agreement.

8.4 In terms of section 66, “BARS” must refuse a request for access to a record of the body if disclosure could reasonably be expected to:

- *Endanger the life or physical safety of an individual;*
- *Prejudice or impair the security of a building, structure or system, including by not limited to a computer or communications system, means of transport or any other property*
- *“BARS” may also refuse a request of access to information that would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.*

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 “BARS” itself and unlike the other provisions pertaining to decline a request, is not mandatory, but rather discretionary. “BARS” may refuse access to a record if the record:

- *Contains trade secrets of “BARS”*
- *Contains financial, commercial, scientific or technical information, the disclosure of which would likely cause harm to the commercial or financial interests of “BARS”*
- *Contains information which, if disclosed, could reasonably be expected to put “BARS” at a disadvantage in contractual or other negotiations, or prejudice “BARS” in commercial competition, or consists of a computer program owned by “BARS”*

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 “BARS” 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 a 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 the court for relief.

It should be noted notwithstanding any provision of this Act, the court may examine the record(s) in question. No record may be withheld from the courts 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 specific period;*
- *Granting an interdict, interim or special relief, declaration order or compensation; or*
- *And order as to costs.*

ANNEXURE A

FORM C

REQUEST FOR ACCESS TO RECORD OF A PRIVATE BODY

(Section 53 (1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 10]

A. Particulars of a private body

The Head:

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B. Particulars of person requesting access to the record

Full names and surname:

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Identity Number:

Postal Address:

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Telephone Number:

Email Address:

Fax Number:

Capacity in which request is made on behalf of another person:

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- The particulars of the person who requests access to the record must be given below.
- The address and/or fax number in the Republic to which information is to be sent must be given.
- Proof of capacity in which the request is made, if applicable, must be attached.

C. Particulars of person on whose behalf request is made

Full names and surname:

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.....

Identity Number:

D. Particulars of record

1. Description of record or relevant part of the record:

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.....
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2. Reference number, if available:

.....

3. Any further particulars of record:

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.....

E. 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:

.....

NOTES:

- a. Compliance with your request in 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.

Please tick the required format:

1. If the record is in written or printed form:

Copy of record
Inspection of record

2. If record consists of visual images

(includes photographs, slides, video recordings, computer-generated images, etc)

View images
Copy of the images
Transcription of the images

3. If record consists of recorded words or information which can be reproduced in sound:

Listen to the soundtrack
Transcription of soundtrack

4. If record is held on computer or in an electronic or machine-readable form:

Printed copy of record
Printed copy of information derived from the record
Copy in computer readable form (memory card or disc)

If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?

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:

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

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