

PROMOTION OF ACCESS TO INFORMATION ACT MANUAL 2014



A Guide to ACCESSING OUR INFORMATION

The Manual is prepared in accordance with Section 51 of the Promotion of Access to Information Act, No.2 of 2000.

Dated: 26 February 2003 (Last updated: **30 April 2014**)

ACCESSING OF INFORMATION

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PREAMBLE

The Promotion of Access to Information Act No. 2 of 2000, ("the Act") came into operation on 23 November 2001. Section 51 of this Act requires that we as a private body compile a manual giving information to the public regarding the procedure to be followed in requesting information from us for the purpose of exercising or protecting rights.

PURPOSE OF THE MANUAL

This manual is intended to foster a culture of transparency and accountability within the Banking Industry as a whole, by giving effect to the right to information that is required for the exercise or protection of any right and to ensure that members of the public have effective access to information in our possession which will assist them in the exercise and protection of their rights.

Section 9 of the Act however recognises that such right to access to information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:

- Limitations aimed at the reasonable protection of privacy;
- Commercial confidentiality; and
- 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.

Inside these pages a member of the public will be able to view the categories of information which we possess. He/she will also be shown the correct procedure to follow should he/she require access to any of this information.

A copy of this manual is also available on our website (www.mercantile.co.za).

INFORMATION REQUIRED IN TERMS OF SECTION 51(1)(a) OF THE ACT

Name of Private Body:	Mercantile Bank Limited
Physical Address:	142 West Street, Sandown, Sandton, 2196, South Africa
Postal Address:	PO Box 782699, Sandton, 2146
Head of Private Body:	Mr Karl Kumbier
Telephone:	(011) 302-0300
Facsimile:	(011) 302-0700
Website:	www.mercantile.co.za
Designated Information Officer:	Riyaadh Patel
Postal Address:	P O Box 782699, Sandton, 2146
Physical Address:	5th Floor, Mercantile Bank, 142 West Street, Sandown, 2196
Telephone:	(011) 302-0426
Facsimile:	(011) 302-0745
E-mail:	rpatel@mercantile.co.za
Designated Deputy Information Officer:	Heidi Stoffberg
Postal Address:	P O Box 782699, Sandton, 2146
Physical Address:	5th Floor, Mercantile Bank, 142 West Street, Sandown, 2196
Telephone:	(011) 302-0554
Facsimile:	(011) 302-0745
E-mail:	hstoffberg@mercantile.co.za

INFORMATION REQUIRED IN TERMS OF SECTION 51(1)(b) – (DESCRIPTION OF GUIDE REFERRED TO IN SECTION 10 OF THE ACT):

The South African Human Rights Commission (hereinafter referred to as “the SAHRC”) has compiled a guide. It contains information which would be reasonably required of any person wishing to exercise any right set out in the Act. The guide is available in all of the official languages.

The guide is available for inspection at the offices of the SAHRC at:

33 Hoofd Street
Braampark Forum 3Houghton
Johannesburg

Private Bag 2700
Braamfontein
Johannesburg
2041

Telephone number: (011) 877-3600

www.sahrc.org.za

This section serves as a reference to the records that Mercantile Bank Limited ("MBL") holds in order to facilitate a request in terms of the Act.

It is recorded that the accessibility of the documents listed below, may be subject to the grounds of refusal set out hereinafter.

The information is classified and grouped according to records relating to the following subjects and categories:

3.1. PERSONNEL RECORDS

"Personnel" refers to any person who works for, or provides services to or on behalf of MBL, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of MBL. This includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff, as well as contract workers.

- 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 materials.

3.2 CLIENT RELATED RECORDS

A *"client"* refers to any natural or juristic entity that receives services from MBL.

3.2.1 Records provided by a client to a third party acting for or on behalf of MBL;

3.2.2 Records provided by a third party;

3.2.3 Records generated by or within MBL pertaining to its clients, including transaction records.

3.3 MBL'S RECORDS

Agreements and contracts;
Databases;
Financial records;
Fixed, movable and intellectual property;
Information technology
Insurance;
Internal correspondence;
Internal policies and procedures;
Marketing records;
Operational records;
Product records;
Records held by officers of MBL;
Statutory records;
Taxation; and,
Treasury-related records.

3.4 OTHER PARTY RECORDS

3.4.1 Personnel, client or MBL's records that are held by another party, as opposed to the records held by MBL;

3.4.2 Records held by MBL 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.

MBL 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 MBL.

3.5 INFORMATION AUTOMATICALLY AVAILABLE

The following categories of records are automatically available for inspection, purchase or photocopying. In other words, you do not need to request this information in terms of the Act.

Request forms for these categories of information are also available from our information officer, whose contact details appear in Part I of this manual.

1. Newsletters
2. Booklets
3. Pamphlets/Brochures
4. Annual Reports
5. Circulars to Shareholders
6. Other literature intended for public viewing

PART IV GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

The main grounds for MBL to refuse a request for information relates to the -

4.1 mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;

4.2 mandatory protection of the commercial information of a third party, if the record contains:

4.2.1 trade secrets of that third party;

4.2.2 financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;

4.2.3 information disclosed in confidence by a third party to MBL, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.

4.3 Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;

4.4 mandatory protection of the safety of individuals and the protection of property;

4.5 mandatory protection of records that would be regarded as privileged in legal proceedings;

4.6 the commercial activities of MBL, which may include:

4.6.1 trade secrets;

- 4.6.2 financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of MBL;
 - 4.6.3 information, which, if disclosed, could put MBL at a disadvantage in negotiations or commercial competition;
 - 4.6.4 a computer programme which is owned by MBL, and which is protected by copyright.
- 4.7 The research information of MBL or a third party, if its disclosure would disclose the identity of MBL, the researcher or the subject matter of the research, and would place the research at a serious disadvantage.

Requests for information that are clearly frivolous or vexatious or which involve an unreasonable diversion of resources shall be refused.

PART V REMEDIES AVAILABLE WHEN MBL REFUSES A REQUEST FOR INFORMATION

5.1 INTERNAL REMEDIES

MBL does not have internal appeal procedures. As such, the decision made by the information officer is final and requesters will have to exercise such external remedies at their disposal if the request for information is refused and the requester is not satisfied with the answer supplied by the information officer.

5.2 EXTERNAL REMEDIES

A requester that is dissatisfied with the information officer's refusal to disclose information, may within 30 calendar 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 for information, may within 30 calendar days of notification of the decision, apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

PART VI REQUEST PROCEDURE

- 6.1 The requester must comply with all the procedural requirements contained in the Act relating to the request for access to any of the above categories of information.
- 6.2 The requester must complete the prescribed form in Appendix "1" enclosed herewith, and submit same as well as payment of a request fee and a deposit, if applicable, to the information officer or the designated deputy information officer, at the postal or physical address, facsimile number or electronic mail address as stated in 1.1, 1.2 or 1.3;
- 6.3 The prescribed form which is also available on the South African Human Rights Commission's website (www.sahrs.org.za) and the Department of Justice and Constitutional Development's website (www.doj.gov.za) must be filled in with enough particularity to at least enable the information officer to identify:
- 6.3.1 the record or records requested;
 - 6.3.2 the identity of the requester;
 - 6.3.3 which, form of access is required, if the request is granted;
 - 6.3.4 the postal address or facsimile number of the requester.
- 6.4 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. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

- 6.5 MBL will process the request within 30 calendar days unless the requester has stated special reasons which would satisfy the information officer that circumstances dictate that the above time periods not be complied with.
- 6.6 The requester shall be informed in writing whether access was granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he/she must state the manner and the particulars so required.
- 6.7 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.
- 6.8 If a requester is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 6.9 The requester must pay the prescribed fee before any further processing can take place.

PART VII ACCESS TO RECORDS HELD BY MBL

- 7.1 Records held by MBL may be accessed by requests only once the prerequisite requirements for access have been met.
- 7.2 A requester is any person making a request for access to a record of MBL. There are two types of requesters:
- 7.2.1 PERSONAL REQUESTER
- 7.2.1.1 A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- 7.2.1.2 MBL will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.
- 7.2.2 OTHER REQUESTER
- 7.2.2.1 The requester (other than a personal requester) is entitled to request access to information on third parties. However, MBL is not obliged to voluntarily grant access. The requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

PART VIII FEES

- 8.1 The Act provides for two types of fees, namely:
- 8.1.1 a request fee, which will be a standard fee; and
- 8.1.2 an access fee which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- 8.2 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 (if any), before further processing of the request.
- 8.3 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.

- 8.4 The information officer shall withhold a record until the requester has paid the fees as indicated in "Appendix 2".
- 8.5 A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
- 8.6 If a deposit has been paid in respect of a request for access, which is refused, then the information officer must repay the deposit to the requester.

PART IX DECISION

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

PART X INFORMATION AVAILABLE IN TERMS OF OTHER LEGISLATION

- 10.1 Where applicable to MBL's operations, information is also available in terms of certain provisions of the statutes listed in "Appendix 3".

PART XI AVAILABILITY OF THE MANUAL

- 11.1 The manual is made available in terms of Regulation Number R 187 of 15 February 2002.



MERCANTILE BANK LIMITED

(Reg. No. 1965/006706/06)
("MBL")

FORM A

REQUEST FOR ACCESS TO RECORDS OF MBL

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

(Regulation 10)

A. Particulars of MBL

The Business Head:

B. Particulars of the person requesting access to the record

- (a) *The particulars of the person who requests access to the records must be recorded below.*
- (b) *Furnish an address and/or facsimile number in the Republic to which information must be sent.*
- (c) *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full name and surname:

Identity number:

Postal address:

Telephone number:

Facsimile
number:

E-mail address:

Capacity in which 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 name and surname:

Identity number:

D. Particulars of record:

- (a) 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.
- (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 the record or relevant part of the record:

2. Reference number, if applicable: _____

3. Any further particulars of the record:

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 of the request fee.
- (c) The fee payable for access to a record depends on the form in which the 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 therefore.

Reason for exemption of payment of the fee:

F. Form of access to the 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) Your indication as to the required form of access depends 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:

	Copy of record*		Inspection of record
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2. If the record consists of visual images: (This includes photographs, slides, video recordings, computer generated images, sketches, etc)					
	View the images		Copy of the images*		Transcription of the images*

3. If the record consists of recorded words or information which can be reproduced in sound:			
	Listen to the soundtrack (audio cassette)		Transcription soundtrack* (written or printed document)

4. If the 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* (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? A postal fee is payable.	YES	NO
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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.

Indicate which right is to be exercised or protected: _____

Explain why the requested record is required for the exercising 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 thereof in another manner, please specify the manner and 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 _____ 201 _____

 SIGNATURE OF REQUESTER/PERSON
 ON WHOSE BEHALF REQUEST IS MADE

APPENDIX 2

AN EXPLANATORY NOTE ON FEES TO BE CHARGED BY MBL WHEN GRANTING A REQUEST FOR ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000.

The fees chargeable by private bodies are contained in Part III of Annexure "A" of the Regulations. A copy of Part III is attached for your convenience. The present charges are as follows:

1. Copies of a manual

Should an individual require a copy of MBL's manual, a fee of R1,10 is chargeable for every photocopy of an A4 page or part thereof.

2. Reproduction fees¹

Reproduction fees apply to obtaining copies or transcriptions of information that is automatically available from the private body. The fees are listed in paragraph 2 of Part III of Annexure "A" to the Regulations.

3. Access fees²

Access fees are chargeable for copies or transcriptions of information requested under this Act. The fees are listed in paragraph 4 of Part III of Annexure "A" to the Regulations.

4. Other fees

4.1 A request fee³ of R50,00 is payable by a requester who is seeking access to a record containing information which is not personal to the requester.

4.2 A search fee⁴ may be charged at a rate of R30,00 per hour or part thereof for searching and preparing the record for disclosure provided such time was reasonably required for that purpose.

4.3 If the request is not limited to records containing information that is personal to the requester and if the business head of MBL is of the opinion that the time taken to give effect to the request will exceed six hours, the requester can be called upon to pay a deposit of not more than one third of an estimate of the access fee which will become payable⁵.

4.4 If a copy of a record is posted to a requester, the requester is obliged to pay the actual postage payable.

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:

¹ Section 52(3) and Regulation 1(1)

² Section 54(7) and Regulation 11(3)

³ Section 54(1) and Regulation 11(2)

⁴ * Annexure "A", Part III, Item 4(1)(f)

⁵ ** Section 54(2)

	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 an 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.

Information available in terms of other legislation

Administration of Estates Act No. 66 of 1965

Banks Act No. 94 of 1990

Basic Conditions of Employment Act No. 75 of 1997

Companies Act No. 71 of 2008

Compensation for Occupational Injuries and Diseases Act No. 130 of 1993

Competition Act No. 89 of 1998

Consumer Protection Act No. 68 of 2008

Employment Equity Act No. 55 of 1998

Financial Advisory and Intermediary Services Act No. 37 of 2002

Financial Intelligence Centre Act No. 38 of 2001

Financial Markets Act No. 19 of 2012

Income Tax Act No. 58 of 1962

Insolvency Act No. 24 of 1936

Labour Relations Act No. 66 of 1995

Long-term Insurance Act No. 52 of 1998

National Credit Act No. 34 of 2005

National Payment System Act No. 78 of 1998

Occupational Health and Safety Act No. 85 of 1993

Prescription Act No. 68 of 1969

Prevention of Organised Crime Act No. 121 of 1998

Short-term Insurance Act No. 53 of 1998

Transfer Duty Act No. 40 of 1949

Unemployment Insurance Act No. 63 of 2001

Value-added Tax Act No. 89 of 1991