

Foreign Company Registration

MANUAL

Prepared in accordance with Section 51 of the

Promotion of Access to Information Act, No. 2 of 2000

1. DEFINITIONS AND PAIA GLOSSARY OF TERMS

- 1.1. **“Access fee”**, means money required to be paid by a requester, for the time spent searching for and preparing records, copying the records and postage costs;
- 1.2. **“Access to information”**, means to be allowed to see or hear information or to be provided with a copy or a transcript of a record;
- 1.3. **“Appeal”**, means a challenge to a decision on a PAIA request or to a deemed refusal of a request;
- 1.4. **“Application”**, means a formal legal document used to start a legal matter, challenging the decision or internal appeal decision, under PAIA, in a court;
- 1.5. **“Commercial information”**, means information in a record that sets out financial, scientific, technical issues or trade secrets that if released could be expected to harm the ability to negotiate a good contract or the ability to compete for business;
- 1.6. **“Company”, “Our”, “Us”, “We”**, means CG Botha t/a Foreign Company Registration, A Sole Proprietorship;
- 1.7. **“Complaint”**, means action taken to let people know that you do not agree with an action or decision or the reasons for that decision;
- 1.8. **“Confidential information”**, means information provided to a person or organisation on the condition that the information will not be disclosed to anyone else;
- 1.9. **“Court”**, means a legal decision-making body that will accept an application and hear a complaint including the local Magistrates Court, local High Court, Supreme Court of Appeal or Constitutional Court;
- 1.10. **“Decision”**, means a conclusion or final response to a request;
- 1.11. **“Deemed refusal of request”**, means a decision presumed to be made by a private body that the records will not be provided in response to the submitted PAIA request;
- 1.12. **“Deputy Information Officer”**, means an individual employed by a public body to assist the Information Officer to process PAIA requests;
- 1.13. **“Extension of period”**, means additional time granted, or claimed by notice, to provide a decision which is the additional 30 days, over the usual 30 days, been given to respond to a PAIA request;
- 1.14. **“Frivolous or vexatious request”**, means a request that has not been made for the purpose of gaining access to the information requested but rather to waste the information officer’s time or purely to cause annoyance;

- 1.15. **“Grounds for internal appeal”**, means the reasons provided by the private body for deciding not to give records in response to a PAIA request;
- 1.16. **“Guide”**, means the Guide published by the South African Human Rights Commission;
- 1.17. **“Information”**, means facts, data, opinion and other knowledge;
- 1.18. **“Information officer”**, means the individual in the private body who is responsible for dealing with PAIA requests;
- 1.19. **“HRC”**, means the Human Rights Commission;
- 1.20. **“Personal information”**, means recorded information about a person that identifies that person or that is regarded as sensitive;
- 1.21. **“Personnel”**, means any person who works for, or provides services to, or on behalf of the Company. This includes, without limitation, directors (executive and non-executive), all permanent, temporary, and part-time staff, as well as contract workers;
- 1.22. **“Private body”**, means a legal person such as a company (but excluding state-owned companies) or a trust or a natural person (either alone or in partnership with someone else), but only if that natural person (or persons) carries on a trade or a business or is a registered professional;
- 1.23. **“Person”**, means, a natural or a juristic person;
- 1.24. **“Record”**, means any information that has been recorded in some way;
- 1.25. **“Reference number”**, means a unique combination of numbers or letters or letters and numbers on documents sent between yourself and a public body or private body that serve the purpose of helping you or them (or both) to identify your request;
- 1.26. **“Request for access”**, means a request to see or receive a copy of a record of information, made following the procedures set out in PAIA;
- 1.27. **“Request fee”**, means money that is required to be paid in order for a request for access to be processed;
- 1.28. **“Requester”**, means a person or organisation who is seeking access to information;
- 1.29. **“Requestee”**, means a public body or private body that receives a PAIA request;
- 1.30. **“Third party”**, means any person or organisation that is not directly involved in the matter but is affected in some way. Under PAIA this is any person or legal organisation, other than a public body or private body, or the requester who did not make or receive the request but will be affected by the release of the requested information.

2. INTRODUCTION

2.1. Foreign Company Registration (“the Company”) is the largest fully independent tax practice in South Africa with over 130 talented professionals, mostly admitted attorneys, chartered accountants, tax specialists and international mobility professionals. Our work reflects our approach to taxation matters, which is holistic, technical and, above all, result driven. We have an appetite for challenging and complex matters, where we seek to deliver the most tax efficient outcome to our clients, whilst being fully compliant. Our market position is reflective of a ‘modern tax suite’, where we often work for law firms, accountants or providers who require clinical execution.

3. PURPOSE

- 3.1. The Promotion of Access to Information Act, No. 2 of 2000 (“the Act”) gives effect to the constitutional right of access to information in terms section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa 108 of 1996 (“the Constitution”). In terms of the Act, a natural and juristic person has the right to request of access to any information held by the state or a private body that is required for the exercise or protection of any rights.
- 3.2. In terms of Section 51 of the Act, all Private Bodies are required to compile an Information Manual (“Manual”). This Manual explains the type of records and personal information held by Foreign Company Registration how to submit a request to access records or personal information as envisaged in PAIA read with the Protection of Personal Information Act No. 4 of 2013 (“POPIA”).
- 3.3. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, subject to applicable legislative and/or regulatory requirements, except where the Act expressly provides that the information may be adopted when requesting information from a public or private body.
- 3.4. This PAIA Manual complies with the requirements of the Guide of the South African Human Rights Commission (“the Guide”) mentioned in section 10 of the Act and recognises, that the appointed Information Regulator will be responsible to regulate compliance with the Act and its regulations by private and public bodies.
- 3.5. This PAIA Manual of the Company is available to view on its website at www.foreigncompany.co.za and at its premises:

Johannesburg Office (Head Office)

Wrigley Field Building
The Campus
57 Sloane Street
Bryanston
2191

George Office

55 York Street
Dormehls Drift
George
Western Cape

3.6. Requests shall be made in accordance with the prescribed forms detailed in paragraph 18.

4. CONTACT DETAILS OF THE HEAD OF THE BODY [SECTION 51(1)(A)]

Managing Partner:	Jerry Botha
Registered Address:	Wrigley Field Building, The Campus, 57 Sloane Street, Bryanston, Johannesburg, 2191
Postal Address:	PO Box 35046, Northcliff, 2115
Email	privacy@taxconsulting.co.za
Telephone Number:	+27 11 467 0810
Website:	https://www.foreigncompany.co.za/

5. THE INFORMATION OFFICER

5.1. The Company has appointed an Information Officer to assess requests for access to information as well as to oversee its required functions in terms of the Act.

5.2. The Information Officer appointed in terms of the Act also refers to the Information Officer as referred to in the Protection of Personal Information Act 4 of 2013. The Information Officer oversees the functions and responsibilities as required for in terms of both this Act as well as the duties and responsibilities in terms of section 55 of the Protection of Personal Information Act 4 of 2013.

5.3. The Information Officer may appoint, Deputy Information Officers, as allowed in terms of section 17 of the Act as well as section 56 of the Protection of Personal Information Act 4 of 2013. All requests for information in terms of the Act must be addressed to the Information Officer.

5.3.1. Contact details of the Information Officer:

Information Officer:	Jerry Botha
Registered Address:	Wrigley Field Building, The Campus, 57 Sloane Street, Bryanston, Johannesburg, 2191
Postal Address:	PO Box 35046, Northcliff, 2115
Email	privacy@taxconsulting.co.za

Telephone Number:	+27 11 467 0810
Website:	https://www.foreigncompany.co.za/

6. GUIDE OF SA HUMAN RIGHTS COMMISSION [SECTION 51(1)(B)]

6.1. The South African Human Rights Commission (“HRC”) has compiled a Guide (“the Guide”) as required in terms of Section 10 of the Act. The Guide contains such information as may reasonably be required by a person who wishes to exercise any right. The Guide is available in all the official languages of the Republic of South Africa.

6.2. The HRC’s contact details are:

Physical Address:	PAIA Unit 29 Princess of Wales Terrace Cnr York and Andrew Street Parktown
Postal Address:	Private Bag 2700, Houghton 2041
Telephone Number:	+27 11 484 8300
Telefax	+27 11 484 0582
E-Mail:	PAIA@sahrc.org.za
Web Site:	www.sahrc.org.za

7. RECORDS THAT ARE AUTOMATICALLY AVAILABLE TO EITHER EMPLOYEES ONLY, OR THE GENERAL PUBLIC AND EMPLOYEES

7.1. The following records are automatically available to all employees and need not be requested in accordance with the procedure outlined in paragraph 11:

- 7.1.1. Personnel records are available to the employee who is the owner of the file;
- 7.1.2. Records of disciplinary hearings and related matters are available to the employee concerned;
- 7.1.3. The Company's policies and procedures.

7.2. The following records are automatically available to the general public and all employees and need not be requested in accordance with the procedure outlined in paragraph 11:

- 7.2.1. The Company's employment equity plan;
- 7.2.2. The Company's skills development plan.

8. RECORDS AVAILABLE ONLY ON REQUEST TO ACCESS IN TERMS OF THE ACT [SECTION 51(1)(C)]

- 8.1. These records are not automatically available without a request in terms of the Act. A request for these records is subject to section 63(1) of the Act, which provides that the head of a company must refuse a request for access to a record of the company if the disclosure of the record would involve the unreasonable disclosure of personal information about a third party including a deceased individual.

Record Type	Description
Companies Act Records	<ul style="list-style-type: none"> · Trust deeds; · Documents of Incorporation · Index of names of Directors · Memorandum of Incorporation · Minutes of meetings of the Board of Directors · Minutes of meetings of Shareholders · Proxy forms · Register of debenture-holders · Register of directors' shareholdings; Share certificates · Share Register and other statutory registers and/or records and/or documents · Special resolutions/Resolutions passed at General and Class meetings · Records relating to the appointment of Auditors, Directors, Prescribed Officers, Public Officers and Secretary.
Financial Records	<ul style="list-style-type: none"> · Accounting Records · Annual Financial Reports · Annual Financial Statements Asset Registers · Bank Statements · Banking details · Banking Records · Debtors / Creditors statements and invoices · General ledgers and subsidiary ledgers · General reconciliation · Invoices · Paid Cheques · Policies and procedures · Rental Agreements · Tax Returns
Income Tax Records	<ul style="list-style-type: none"> · PAYE Records · Documents issued to employees for income tax purposes · Records of payments made to SARS on behalf of employees · Statutory compliances including: <ul style="list-style-type: none"> ➤ VAT ➤ Regional Services Levies ➤ Skills Development Levies

Record Type	Description
	<ul style="list-style-type: none"> ➤ UIF ➤ Workmen's Compensation
Personal documents and records	<ul style="list-style-type: none"> · Accident books and records · Address Lists · Contact lists · Disciplinary Records · Employee benefits arrangements rules and records · Employment Contracts · Employment Equity Plan Forms and Applications · Grievance Procedures · Leave Records · Medical Aid Records · Payroll reports/ Wage register · Pension Fund Records · Safety, Health and Environmental records · Salary Records · SETA records · Standard letters and notices · Training Manuals · Training Records · Workplace and Union agreements and records
Procurement Department	<ul style="list-style-type: none"> · Standard Terms and Conditions for the supply of services and products · Contractor agreements · Supplier agreements · Client agreements · List of suppliers · List of clients
Sales Department	<ul style="list-style-type: none"> · Customer details · Credit application information · Information and records provided by a third party
Marketing Department	<ul style="list-style-type: none"> · Advertising material · Promotional material
Risk Management and Audit	<ul style="list-style-type: none"> · Audit reports · Risk management frameworks · Risk management plans
Safety, Health and Environment	<ul style="list-style-type: none"> · Safety, Health and Environment Risk Assessment · Environmental Management Plans · Inquiries records · Inspections records · Authority examination records
IT Department	<ul style="list-style-type: none"> · Hardware asset registers;

Record Type	Description
	<ul style="list-style-type: none"> · Information security standards and procedures · Information technology systems and user manuals · Project implementation plans · Software licensing · System documentation and manuals
Corporate Social Responsibility	<ul style="list-style-type: none"> · CSR schedule of projects · Record of organisations that receive funding Reports · Books, publications and general information related to CSR spend · Records and contracts of agreement with funded organisations.

9. RECORDS AVAILABLE WITHOUT A REQUEST TO ACCESS IN TERMS OF THE ACT

- 9.1. Records of a public nature, typically those disclosed on the Company's website and in its various annual reports, may be accessed without the need to submit a formal application.
- 9.2. Other non-confidential records, such as statutory records maintained at CIPC, may also be accessed without the need to submit a formal application, however, please note that an appointment to view such records will still have to be made with the Information Officer.

10. RECORDS AVAILABLE IN TERMS OF ANY OTHER LEGISLATION [SECTION 51(1)(D)]

- 10.1. The following records are not automatically available without request in terms of the Act. The Company retains records and documents in terms of the legislation listed below, where such records and documents are applicable to its operations.
- 10.2. The below records shall be made available in terms of the relevant Act, unless disclosure is prohibited in terms of legislation, regulations, contractual agreement or otherwise.
- 10.2.1. Attorneys Act No. 53 of 1979;
- 10.2.2. Auditing Professions Act No. 26 of 2005;
- 10.2.3. Basic Conditions of Employment Act No. 75 of 1997;
- 10.2.4. Broad-Based Black Economic Empowerment Act, 2003;
- 10.2.5. Business Act No. 71 of 1991;
- 10.2.6. Companies Act No. 71 of 2008;
- 10.2.7. Compensation of Occupational Injuries and Diseases Act No. 130 of 1993;
- 10.2.8. Competition Act No. 89 of 2008;

- 10.2.9. Constitution of the Republic of South Africa;
- 10.2.10. Copyright Act No. 98 of 1978;
- 10.2.11. Customs and Exercise Act No. 91 of 1964;
- 10.2.12. Debt Collectors' Act No. 114 of 1998;
- 10.2.13. Designs Act No. 195 of 1993;
- 10.2.14. Electronic Communications Act No. 36 of 2005;
- 10.2.15. Electronic Communications and Transaction Act No. 25 of 2002;
- 10.2.16. Employment Equity Act No. 55 of 1998;
- 10.2.17. Financial Advisory and Intermediary Services Act of 2002;
- 10.2.18. Financial Intelligence Centre Act No 38 of 2001;
- 10.2.19. Identification Act No.68 of 1997;
- 10.2.20. Income Tax Act No. 58 of 1962;
- 10.2.21. Insider Trading Act No. 135 of 1998;
- 10.2.22. Insolvency Act No. 24 of 1936;
- 10.2.23. Inspection of Financials Institutions Act No. 18 of 1998;
- 10.2.24. Intellectual Property Laws Amendment Act 38 of 1997;
- 10.2.25. Labour Relations Act No. 66 of 1995;
- 10.2.26. Leases of Land Act No. 18 of 1969;
- 10.2.27. Long Term Insurance Act 52 of 1998;
- 10.2.28. Machinery and Occupational Safety Act No. 6 of 1983;
- 10.2.29. National Credit Act No. 34 of 2005;
- 10.2.30. National Road Traffic Act 93 of 1996;

10.2.31. National Environmental Management Act No 107 of 1998;

10.2.32. Occupational Health and Safety Act No. 85 of 1993;

10.2.33. Patents Act No. 57 of 1978;

10.2.34. Pension Funds Act No. 24 of 1956;

10.2.35. Prescription Act No. 68 of 1969;

10.2.36. Prevention of Organised Crime Act No. 121 of 1998;

10.2.37. Promotion of Access to Information Act No. 2 of 2000;

10.2.38. Protection of Personal Information Act No. 4 of 2013;

10.2.39. Revenue laws Second Amendment Act. No 61 of 2008;

10.2.40. Road Transportation Act. No. 74 of 1977;

10.2.41. Skills Development Levies Act No. 9 of 1999;

10.2.42. Short-term Insurance Act No. 53 of 1998;

10.2.43. Stock Exchanges Control Act No. 1 of 1985;

10.2.44. Taxation Laws Amendment Act No. 7 of 2010;

10.2.45. Trademarks Act No. 194 of 1993;

10.2.46. Transfer Duty Act No 40 of 1949;

10.2.47. Uncertificated Securities Tax Act No. 31 of 1998;

10.2.48. Unemployment Contributions Act 63 of 2001;

10.2.49. Unemployment Insurance Act No. 30 of 1966; and

10.2.50. Value Added Tax Act 89 of 1991.

10.3. Accessibility of documents and records may be subject to the grounds of refusal set out in this PAIA Manual.

11. REQUEST PROCEDURE

- 11.1. A request shall be made on the prescribed form attached marked Annexure A. The form is also available from the website of the HRC, or the website of the Department of Justice and Constitutional Development at www.doj.gov.za.
- 11.2. The prescribed form must be submitted to the information officer at his address or e-mail address.
- 11.3. The procedure set out in 10.2 applies if the requester is requesting information on behalf of another person.
- 11.4. The information officer of the company, as soon as reasonably possible and within thirty days after the request has been received, shall decide whether or not to grant the request.
- 11.5. The requester will be notified of the decision of the information officer of the company or the in the manner indicated by the requester in the prescribed form.
- 11.6. The Company will advise the requester in the manner stipulated by the requester in the prescribed form of:
 - 11.6.1. the access fee to be paid for the request of information;
 - 11.6.2. the format in which access will be given; and
 - 11.6.3. the requester's right to lodge an appeal with a court with competent jurisdiction against the access fee
- 11.7. After the information's decision to grant access, the record requested will be given to the requester as soon as reasonably possible.
- 11.8. If the request for access is refused, the requester will be refunded the deposit paid and the information officer advise the requester in writing of the refusal and state the following:
 - 11.8.1. The reason for the refusal;
 - 11.8.2. The fact that the requester may lodge an appeal with a court of competent jurisdiction against the refusal of the request;
 - 11.8.3. The period in which the requester must lodge the appeal
- 11.9. If the information officer fails to respond within thirty days after a request has been received, it is deemed, in terms of section 58 read together with section 56(1) of the Act, that the information officer has refused the request.
- 11.10. The information officer may extend the period of thirty days for another period of not more than thirty days if:
 - 11.10.1. The requester consents or the parties mutually agree to such an extension in writing
 - 11.10.2. The request is for a large number of records;
 - 11.10.3. The record is located at premises other than the location of the office of the company and a search is required to locate the record; and

11.10.4. Consultation among divisions or departments of the company is required.

12. REFUSAL OF ACCESS TO RECORDS

12.1. The grounds for refusal of access to a record or information are as follows:

12.1.1. Mandatory protection of the privacy of a third party who is a natural person or a deceased person (section 63) or a juristic, as included in the Protection of Personal Information Act 4 of 2013, which would involve the unreasonable disclosure of personal information of that natural or juristic person;

12.1.2. Mandatory protection of personal information and for disclosure of any personal information to, in addition to any other legislative, regulatory or contractual agreements, comply with the provisions of the Protection of Personal Information Act 4 of 2013; mandatory protection of the commercial information of a third party (section 64), if the record contains:

12.1.3. Trade secrets of the third party;

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

12.1.3.2. Information disclosed in confidence by a third party to the Company, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;

12.1.3.3. Mandatory protection of confidential information of third parties (section 65) if it is protected in terms of any agreement;

12.1.3.4. Mandatory protection of the safety of individuals and the protection of property (section 66);

12.1.3.5. Mandatory protection of records which would be regarded as privileged in legal proceedings (section 67).

12.1.4. The commercial activities (section 68) of the Company, which may include:

12.1.4.1. trade secrets of the Company;

12.1.4.2. financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the Company;

12.1.4.3. information which, if disclosed could put the Company at a disadvantage in negotiations or commercial competition;

12.1.4.4. a computer program which is owned by the Company, and which is protected by copyright;

- 12.1.4.5. the research information (section 69) of the Company or a third party, if its disclosure would disclose the identity of the third party Company, the researcher or the subject matter of the research and would place the research at a serious disadvantage.
- 12.1.5. Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.
- 12.1.6. All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation.

13. REMEDIES AVAILABLE WHEN THE INFORMATION OFFICER REFUSES A REQUEST

13.1. Internal Remedies the Company South Africa does not have an internal appeal procedure decision made by the Information Officer is final. Requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requestor is not satisfied with the answer supplied by the Information Officer.

13.2. External Remedies

- 13.2.1. A requestor that is dissatisfied with the Information Officer's refusal to disclose information, may within 30 (thirty) days of notification of the decision, apply to a Court for relief.
- 13.2.2. A third party dissatisfied with the Information Officer's decision to grant a request for information, may within 30 (thirty) 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 and a Magistrate's Court designated by the Minister of Justice and Constitutional Development and which is presided over by a designated Magistrate.

14. INFORMATION OR RECORDS NOT FOUND

- 14.1. If all reasonable steps have been taken to find a record, and such a record cannot be found or if the records do not exist, then information officer shall notify the requester, by way of an affidavit or affirmation, that it is not possible to give access to the requested record.
- 14.2. The affidavit or affirmation shall describe the steps taken to find the record or to determine the existence thereof, including details of all communications by the information officer with every person who conducted the search.
- 14.3. The communication to the requester by the information officer that information or a record cannot be found shall be regarded as a decision to refuse a request for access to the record concerned for the purposes of the Act.
- 14.4. If the record in question 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 access is refused by the information officer.

14.5. The attention of the requester is drawn to the provisions of Chapter 4 of Part 3 of the Act in terms of which the company may refuse, on certain specified grounds, to provide information to a requester.

15. INFORMATION REQUESTED ABOUT A THIRD PARTY

15.1. Section 71 of the Act makes provision for a request for information or records about a third party.

15.2. In considering such a request, the Company will adhere to the provisions of sections 71 to 74 of the Act.

15.3. The attention of the requester is drawn to the provisions of Chapter 5 of Part 3 of the Act in terms of which the company is obliged, in certain circumstances, to advise third parties of requests lodged in respect of information applicable to or concerning such third parties. In addition, the provisions of Chapter 2 of Part 4 of the Act entitle third parties to dispute the decisions of the information officer by referring the matter to the High Court.

16. FEES

16.1. The fees for reproduction of a record as referred to in section 52(3) are as follows:

Type of record requested	Fee
Every photocopy of an A4 size page or part thereof	R1,10
Every printed copy of an A4-size page or part thereof	R0,75
For a copy of a compact disc	R70,00
For a transcript of visual images for an A4 size page or part thereof	R40,00
For a copy of visual images	R60,00
For a transcript of an audio record, for an A4-size page or part thereof	R20,00
For a copy of an audio record	R30,00

16.2. The request fee payable by a requester, other than a personal requester is R50, 00.

16.3. If the information officer is of the opinion that six hours will be exceeded to search, reproduce and/or prepare the information requested an amount of the deposit, equal to 1/3 (one third) of the amount of the applicable access fee, is payable by the requester.

17. UPDATING OF THE PAIA MANUAL

17.1. The Company may update this Manual every six months or when an update is deemed necessary.

18. REQUEST FORMS

18.1. The relevant forms for request of information and notice of appeal can be accessed on the website of the Department of Justice and Constitutional Development or the HRC's website. The requester may follow the links provided below to access the forms.

Form	Link
Form B Notice of Internal Appeal	https://www.justice.gov.za/forms/paia/J751_paia_Form%20B.pdf
Form C Request for Access to Record of Private Body	https://www.justice.gov.za/forms/paia/J752_paia_Form%20C.pdf