

1. Introduction

In terms of Section 32 of the Bill of Rights in the Constitution of the Republic of South Africa, Act No. 108 of 1996 ("the Constitution") every person has a right to access information. In order to fulfill this constitutional obligation, the Promotion of Access to Information Act No. 2 of 2000 ("the Act") was assented to by Parliament.

The purpose of the Act is to give effect to the constitutional right of access to any information held by the state, as well as information held by another person that is required for the exercise or protection of any right.

The motivation for giving effect to the right of access to information is to:

- foster a culture of transparency and accountability in both public and private bodies; and
- promote a society in which the people of the Republic of South Africa have effective access to information to enable them to more fully exercise and protect all their rights.

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

- 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.

2. Purpose

The PAIA manual outlines the types of records and the personal information (PI) held by Found and sets out the procedure to request access to these records and personal information, the requirements which such request must meet, as well as the grounds for refusal or partial refusal of such request. In addition, it explains how we process personal information and how to access personal information held by Found in terms of Sections 23 and 25 of the Protection of Personal Information Act 4 of 2013 (POPIA).

This manual is not exhaustive of, nor does it comprehensively deal, with every procedure provided for in the Act. Requesters are advised to familiarise themselves with the provisions of the Act before making any requests to Found in terms of the Act.

Found makes no representation and gives no undertaking or warranty that the information in this manual or any information provided by it to a Requester is complete or accurate, or that such information is fit for any purpose. All users of any such information shall use such information entirely at their own risk, and Found shall not be liable for any loss, expense, liability or claims, howsoever arising, resulting from the use of this manual or of any information provided by Found or from any error therein.

All users irrevocably agree to submit exclusively to the laws of the Republic of South Africa and to the exclusive jurisdiction of the Courts of South Africa in respect of any dispute arising out of the use of this manual or any information provided by Found.

3. Company Contact Details

Full name: Found (Pty) Ltd
Registered Address: 13 Keyes Avenue, Rosebank, 2196
Postal Address: P O Box 4709, Rivonia, 2128
Designated Information Officer: Johnny Smith
E-mail address: support@foundprotector.co.za
Payments should be made to: Found (Pty) Ltd

SAHRC	Information regulator
South African Human Rights Commission Promotion of Access to Information Act Unit Research and Documentation Department Private Bag 2700 Houghton Johannesburg 2041	The Information Regulator (South Africa)
Braampark, Forum 3 33 Hoofd Street Braamfontein Johannesburg 2001	Braampark, Forum 3 33 Hoofd Street Braamfontein Johannesburg 2001
Telephone number: (011) 877 3600 Fax number: (011) 484 7146/7 Website: www.sahrc.org.za Email: mailto:info@sahrc.org.za	Mr Marks Thibela Chief Executive Officer Cell No. +27 (0) 82 746 4173 Email: MThibela@justice.gov.za info@justice.gov.za https://infoeregulator.org.za/contact-us/

5. Guide of the South African Human Rights Commission

In terms of Section 10 of the Act the South African Human Rights Commission ("SAHRC") published a Guide containing information reasonably required by a person wishing to exercise or protect any right in terms of the Act.

Copies of PAIA and POPIA, the relevant regulations and guides to these acts, can be obtained from the SAHRC or the Information Regulator and queries should be directed to:

6. Information available in terms of Section 51(1)(d) of the Act

Where applicable to Found's operations, information is also available in terms of certain provisions of the following statutes:

- a. Basic Conditions of Employment Act No. 75 of 1997;
- b. Companies Act No. 71 of 2008;
- c. Employment Equity Act No. 55 of 1998;
- d. Skills and Development Levies Act, No. 9 of 1999;
- e. Income Tax Act No. 58 of 1962;
- f. Labour Relations Act No. 66 of 1995;
- g. Unemployment Insurance Act No. 63 of 2001
- h. Value-added Tax Act No. 89 of 1991

7. Subjects and Categories of Records held by Found

Found holds the following subjects and categories of records for Found:

8. Statutory Company Information

- i. Certificate of Incorporation;
- ii. Certificate of Change of Name (if any);
- iii. Memorandum of Incorporation;
- iv. Certificate to Commence Business;
- v. Minute Book containing minutes of shareholder and board meetings;
- vi. Resolutions passed by shareholders and the board of directors;
- vii. Register of Directors' shareholdings;
- viii. Register of Directors and Prescribed Officers;
- ix. Directors' Attendance Register of meetings;
- x. Annual returns;
- xi. Annual Financial Statements including:
 - i. Annual Accounts;
 - ii. Directors' Reports;
 - iii. Auditors' Report.

(b) Accounting Records

- i. Books of Accounts including journals and ledgers;
- ii. Delivery notes, orders, invoices, statements, receipts, vouchers.

(c) Statutory Employee Records

- i. Employees' names and occupations;
- ii. Date of birth of each employee;
- iii. Remuneration paid to each employee;
- iv. Salary and wages register;(v) Staff records;
- v. Expense accounts;(vii) PAYE Tax records;
- vi. Employment Equity Plan;
- vii. Skills Development Plan.

(d) Other Employee Records

- i. Employee contracts;
- ii. Staff loan schemes;
- iii. Study assistance schemes;
- iv. Maternity leave policy;
- v. Group insurance scheme;
- vi. Code of conduct;
- vii. HIV/AIDS policy.

(e) Pension and retirement Funding Records

- i. Pension Fund Rules;
- ii. Pension Fund account records;
- iii. Minutes of Meetings of Trustees;
- iv. Contribution records;
- v. Annual accounts.

(f) Movable Property

- i. Asset register;
- ii. Lease agreements.

(g) Intellectual Property

- i. Trademark applications and protected names;
- ii. Agreements relating to intellectual property such as licence agreements;
- iii. Copyrights.

(h) Agreements and Contracts

- i. Material agreements concerning provision of services;
- ii. Joint venture agreements, co-promotion or other alliance agreements;
- iii. Agreements with contractors and suppliers;
- iv. Agreements with clients;
- v. Lease agreements;
- vi. Confidentiality agreements.
- vii. Non-Disclosure agreements

(i) Taxation

- i. Copies of Income Tax Returns, VAT returns and other tax returns and documents

(j) Legal

- i. Complaints, pleadings, briefs and other documents pertaining to any actual or pending litigation, arbitration or investigation;
- ii. Material licences, permits and authorisations.

(k) Insurance

- i. Insurance policies;
- ii. Claim records;
- iii. Details of insurance coverages, limits and insurers.

(l) Information Technology

- i. Hardware;
- ii. Operating Systems;
- iii. Telephone lines, leased lines and data lines;
- iv. Software Packages;
- v. Disaster Recovery Plan;
- vi. Internal Systems Support and Programming;
- vii. Capacity and Utilisation of Current Systems;
- viii. Agreements;
- ix. Licences.

(m) Sales and Marketing

- i. Product brochures;
- ii. Market research reports;
- iii. Market information;
- iv. Clients;
- v. Newsletters and Advertising Materials;
- vi. Orders.

(n) Personal/special personal information

- i. Name, identity number (ID), race, etc.
- ii. Bank details
- iii. Account numbers, products, etc.
- iv. Biometric special information
- v. Vehicle registration
- vi. Surveillance records
- vii. Location information

9. Principles for the collection and processing of personal information**a. Collection, processing and purpose**

Found will only collect personal information when it is necessary to comply with legal obligations that apply, or when such processing is necessary for the performance of a contract or pre- contractual procedures.

Found may also process information if it has a legitimate interest, provided that in each case our interest is in accordance with applicable law and the rights of the Data Subject.

When none of the other lawful processing conditions support the data processing operation, Found will only process personal information if it has obtained the consent of the Data Subject to process said personal information for specific, explicit and legitimate purposes.

Found will only use personal information for the fulfilment of the specific purposes for which it was obtained, or for other lawful processing.

b. Accuracy

Found will take all reasonable steps to ensure that personal information that it processes is accurate, complete and up to date.

c. Openness

Found is committed to openness regarding its policies and practices of handling of personal information.

d. Security

Found will ensure that appropriate security safeguards are in place to protect Personal Information from loss, unauthorised access, destruction, use, modification or disclosure.

e. Transfers and sharing

Found may transfer personal information outside South Africa or the European Union to be processed by some of its service providers, companies associated with and/or belonging to the Found Group. In this case, Found ensures that this transfer takes place in accordance with the legislation in force and that an adequate level of protection of personal information is guaranteed based on standard data protection clauses adopted.

Found will only disclose personal information for the fulfilment of the specific purposes for which it was obtained, or for other lawful processing.

Under no circumstances does Found transfer or share personal information, outside the conditions described above, or sell Personal Information to third parties.

f. Retention

Found will retain personal information for as long as is necessary for the purposes for which it was collected. In some cases, data retention may occur for longer periods, especially when applicable law so requires.

g. Access

The Data Subject may request a copy of their personal information from Found and, where required, instruct Found to effect changes to correct the data or to permanently delete their personal information, in accordance with local regulations.

10. Procedure for requesting access to information

Anyone (other than a personal requester) who wishes to request access to any of the above categories of information are required to complete a request form as set out in annexure "A" hereto. These forms are also available from:

- a. our information officer (whose details appear on the first paragraph of this manual);
- b. the SAHRC website (www.sahrc.org.za)
- c. the Department of Justice and Constitutional Development website(www.doj.gov.za).

The Act provides for two types of fees, namely:

- request fee, which will be a standard fee payable in advance; and
- access fee, which must be calculated by taking into account reproduction costs, search and preparation time and costs, as well as postal costs. Details of these fees are contained in the request form.

It is important to note that access is not automatic. You must identify the right you are seeking to protect and explain why the record you request is required for the exercise or protection of that right. You will be notified in the manner indicated by you on the request form whether your request has been approved or declined.

A personal requester is a requester who is seeking access to a record containing personal information about the requester. Found 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 will be charged.

12. Decision

Found will, within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons to that effect.

The 30 day period within which Found has to decide whether to grant or refuse the request may be extended for a further period of not more than 30 days if the request is for a large quantity of information, or the request requires a search for information held at another office and the information cannot reasonably be obtained within the original 30 day period. Found will notify the requester in writing should an extension be sought.

13. Grounds of refusal

The main grounds for Found to refuse a request for information relates to the following:

- mandatory protection of privacy of a third party;
- mandatory protection of the commercial information of a third party;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreements;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of the commercial activities of Found;
- the research information of Found or a third party, if its disclosure would disclose the identity of Found, the researcher or the subject matter of the research and would place the research at a serious disadvantage; and
- requests for information that are clearly frivolous or which involve an unreasonable diversion of resources.

14. Records that cannot be found

If Found searches for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try to locate the relevant record.

15. Remedies available when Found refuses a request for information**(a) Internal remedies**

Found does not have internal appeal procedures.

(b) External remedies

A requestor who is dissatisfied with the Information Officer's refusal to disclose information, may, within 30 days of notification of the decision, apply to a competent Court for relief. Likewise, a third party dissatisfied with the Information Officer's decision to grant a request for information may, within 30 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 the Magistrate's Court.