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PAIA MANUAL: SA UNDERWRITING AGENCIES (PTY) LTD

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(Registration No: 1992/03324/07)

Hereafter referred to as SAU

1. INTRODUCTION

The Promotion of Access to Information Act, 2000, PAIA gives effect to section 32 of the Constitution, which provides that everyone has the right to access information held by the State, as well as information held by another person (or private body) when such privately held information is required to exercise a right or to protect a right.

PAIA, provides that a person requesting information must be given access to any record of a private body, if that record is required for the exercise or the protection of a right. However, such request has to comply with the procedural requirements laid down by the Act.

This manual is compiled in accordance with Section 51 of PAIA and contains the following provisions:

- SAU's postal address, street address, phone and fax number and e-mail address.
- a short description of the guidance document on the application of the Promotion of Information Act and the process to be followed in order to obtain a copy of this guide (compiled by the Human Rights Commission in terms of section 10 of the Act).
- the process to be followed in order to access information held by the SAU.
- a description of the typology of records held by SAU (i.e. various information subjects held on each category type). See Paragraph 6.
- a description of SAU's information which are available in accordance with any other legislation

2. CONTACT DETAILS

Chief Executive Officer	Mr. Johann Mynhardt
Postal Address	PO Box 3606, Randburg, 2125
Physical Address	SA Underwriters Place, Bond Street Business Park, 679 Bond Street Ferndale, Randburg, 2194
Business Telephone	(011) 777 7200
Business Fax	(011) 777 7395
Email Address	info@saunderwriters.com

3. GUIDE ON THE PROMOTION OF ACCESS TO INFORMATION ACT (SECTION 10 GUIDE)

The guidance document on the application of the Promotion of Access to Information Act has been compiled by the South African Human Rights Commission. The guidance document has been developed in order to assist people to access records and to exercise their right to information.

The guide is available in all South African official languages free of charge, and any person may request a copy of the guide. A copy of the guide may be obtained by contacting the South African Human Rights Commission at:

Postal Address	The South African Human Rights Commission PAIA Unit The Research and Documentation Department Private Bag 2700 Houghton 2041
Telephone	011 877 3600
E-mail	paia@sahrc.org.za
Website	www.sahrc.org.za

4. PROCEDURE FOR OBTAINING ACCESS TO INFORMATION

Any person who wishes to request any information held by SAU in order to protect or exercise a right may contact the information officer at the following contact details:

Information Officer	Mr. Ryno Arangies
Postal Address	PO Box 3606, Randburg, 2125
Physical Address	SA Underwriters Place, Bond Street Business Park, 679 Bond Street Ferndale, Randburg, 2194
Business Telephone	(011) 521 1417
Business Fax	(011) 521 1517
Email Address	info@saunderwriters.com

A request for access to information must be made in the prescribed form to the information officer indicated above. See Annexure A for the prescribed form.

All required text fields on the annexed "Request for Information Form" must be completed in full and in a legible form. The form (as well as any additional pages attached thereto) must be signed by the person submitting the form.

Once the "Request for Information Form" has been submitted, the information officer will notify the person who submitted the request of the prescribed fee (if any) payable before further processing the request.

A fee of R50 will be charged for access to any records. If the request is granted, the person who submitted the request will be accordingly notified and a further fee will be payable. The additional fee would be for the reproduction, preparation and time reasonably required to search and prepare the disclosure. The person who submitted the request may lodge an application to court against the tender or payment of the fee.

An individual seeking access to a record containing their own personal information will not be charged a request fee.

A person submitting the request must:

- indicate the identity of the person seeking access to the information
- provide sufficient particulars to enable the information officer to identify the information requested
- specify the format in which the information is required
- indicate the contact details of the person requiring the information
- indicate the right to be exercised and/or to be protected, and specify the reasons why the information required will enable the person to protect and/or exercise the right
- where the person requesting the information wishes to be informed of the decision of the request in a particular manner, state the manner and particulars to be so informed
- if the request for information is made on behalf of another person, submit proof that the person submitting the request, has obtained the necessary authorisation to do so

5. 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:

- 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 the Act.

6. CATEGORIES OF RECORDS

6.1 Human Resources

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

- a) any personal records provided to SAU by the employee/personnel

- b) any records a third party has provided to SAU about its personnel;
- c) conditions of employment and other personnel-related contractual and quasi-legal records;
- d) internal evaluation records;
- e) other internal records and correspondence related to the particular employee.

6.2 Client related records

Clients include both juristic and natural entities that receive a service from SAU.

This information includes:

- a) any records a client has provided to a third party acting on behalf of SAU;
- b) any records a Third Party has provided to SAU; and
- c) records generated by or within SAU pertaining to the client, including transactional records.

6.3 SAU Records

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

- a) Financial records
- b) Operational records
- c) Databases
- d) Information Technology
- e) Marketing records
- f) Internal correspondence
- g) Product records
- h) Statutory records
- i) Internal policies and procedures
- j) Treasury related records
- k) Securities and equities
- l) Records held by officials of SAU

6.4 Other Parties

SAU may possess records pertaining to other parties, including without limitation, contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, service providers.

Alternatively such other parties may possess records that can be said to belong to SAU. The following records fall under this category:

- a) Personnel, client or SAU records which are held by another party as opposed to being held by SAU; and
- b) Records held by SAU 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.

6.5 Records available in terms of other legislation

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

- a) Basic Conditions of Employment Act (Act No 75 of 1997);

- b) Compensation for Occupational Injuries and Diseases Act (Act No. 130 of 1993);
- c) Employment Equity Act (Act No. 55 of 1998);
- d) Labour Relations Act (Act No. 66 of 1995);
- e) Occupational Health and Safety Act (Act No. 85 of 1993);
- f) Promotion of Equality and Prevention of Unfair Discrimination Act (Act No. 4 of 2000);
- g) Skills Development Act (Act No. 97 of 1998);
- h) Skills Development Levies Act (Act No. 9 of 1999);
- i) South African Qualifications Authority Act (58 of 1995);

Information relating to personnel may be requested in terms of the above legislation

- j) Companies Act (Act No. 61 of 1973);
- k) Short-Term Insurance Act (Act No. 53 of 1998);
- l) Financial Markets Control Act (55 of 1989); and
- m) Financial Services Board Act (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.

- n) Income Tax Act (Act No. 58 of 1962 as amended); and
- o) VAT Act (89 of 1991)

Records relating to tax, employees and the company may be requested in terms of the above Acts.

7. DECISION MAKING PROCESS

7.1. In terms of Section 55, the information officer will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the information officer must notify the requester 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, however, the record is later found, the requester must be given access if the requester would otherwise have been granted.

7.2. Section 56 provides that the information officer must within 30 days of receipt of a correctly completed request; notify the requester of the decision as to whether or not to grant the request. If the request is:

7.2.1. Granted: the notification must state the applicable access fee required to be paid, together with the procedure to be followed should the requester wish to apply to court against such fee, and the form in which access will be given.

7.2.2. 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 requester wish to apply to court against the decision.

7.3. The information officer may extend the period of 30 days by a further period not exceeding 30 days if:

7.3.1. The requester is for a large number of records or requires a search through a large number of records;

7.3.2. Consultation between divisions of SAU, or with another private body is required; or

7.3.3. The requester consents to the extension

The requester must be notified within the initial 30-day period in writing of the extension, together with reasons therefore, and the procedure involved should the requestor wish to apply to court against the extension.

The information officer's failure to respond to the requester within the 30-day period constitutes a deemed refusal of the request.

7.4. 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.

7.5. If access is granted, access must be given in the form that is reasonably required by the requester, or if the requester has not identified a preference, in a form reasonably determined by the information officer.

8. THIRD PARTIES

If the request is for 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 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 representations to SAU 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 his/her/its right to appeal against the decision by way of application to court within 30 days after the notice.

9. 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:

9.1. 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 persons. However Section 63 (2) does provide exceptions to this.

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

9.2.1. Trade secrets;

9.2.2. Financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or

9.2.3. 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 products or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

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

9.4. In terms of Section 66, SAU must refuse a request for access to a record of the body if disclosure could reasonably be expected to:

9.4.1. Endanger the life or physical safety of an individual;

9.4.2. Prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property;

9.4.3. SAU may also refuse a request for 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.

9.5. 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.

9.6. Section 68 pertains to records containing information about SAU itself and unlike the other provisions pertaining to declination of a request, is not mandatory, but rather discretionary. SAU may refuse access to a record if the record:

9.6.1. Contains trade secrets of SAU;

9.6.2. Contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of SAU;

9.6.3. Contains information which, if disclosed, could reasonably be expected to put SAU at a disadvantage in contractual or other negotiations, or prejudice SAU in commercial competition; or

9.6.4. Consists of a computer program owned by SAU.

9.6.5. 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.

9.7. 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 SAU itself.

9.8. Notwithstanding any of the above-mentioned provisions, section 70 provides that a record must be disclosed if its disclosure would:

- 9.8.1. Reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and
- 9.8.2. If the public interest in the disclosure clearly outweighs the harm.

10. RIGHTS OF APPEAL

- 10.1. 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 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 court for relief.
- 10.2. It should be noted that notwithstanding any provision in this Act, the court may examine the record (s) in question. No record may be withheld from the court in any grounds. The court may not, however, disclose the contents of the record (s).
- 10.3. The court is empowered to grant any order that is just and equitable, including:
 - 10.3.1. Confirming, amending or setting aside the information officer's decision;
 - 10.3.2. Requiring the information officer to take any action, or refrain from taking any action as identified by the court within a specified period;
 - 10.3.3. Granting an interdict, interim or special relief, declaratory order or compensation; or an order as to costs.

ANNEXURE A

REQUEST FOR INFORMATION FORM

(Section 53 (1) of the Promotion of Access to Information Act, 200 (Act No.2 of 2000) [Regulation 10]

A. Particulars of person requesting access to the record

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

FULL NAMES AND SURNAME: _____

IDENTITY NUMBER: _____

POSTAL ADDRESS: _____

TELEPHONE NUMBER: _____

FAX NUMBER: EMAIL ADDRESS: _____

IDENTITY NUMBER: _____

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

B. Particulars of person on whose behalf request is made

FULL NAMES AND SURNAME: _____

IDENTITY NUMBER: _____

C. 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 additional folios.

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

2. Reference number, if available:

3. Any further particulars of record:

D. 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 required to be paid as the request fee.
- c) 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.
- d) If you qualify for exemption of the payment of any fee, please state the reason for exemption

E. Form of access to record

Mark the appropriate box with an X

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.

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

Copy of record	Inspection of record	
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2. If record consists of visual images. This includes photographs, slides, video recordings, computer-generated images. Sketches, etc.)

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

Copy of recording	Transcription of recording	
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4. If record is held on computed 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
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If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.

Yes	No
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F. 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:

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

ANNEXURE B

FEES

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 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.

The fees for reproduction referred to in regulation 11(1) are as follows:

- a) For every photocopy of an A4- size page or part thereof: R1.10
 - b) For every printed copy of an A4-size page or part thereof held on a computer or in machine readable form R00.75
 - c) For a copy in a computer – readable form on –
 - d) Stiffy disc R7.50
 - e) Compact disc R70.00
 - f) For a transcription of visual images, for an A4-size page of part thereof R40.00
 - g) For a copy of visual images R60.00
 - h) For a transcription of an audio record, for an A4-size page or part thereof R20.00
 - i) For a copy of an audio record R30.00
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:

- a) For every photocopy of an A4- size page or part thereof: R1.10
- b) For every printed copy of an A4-size page or part thereof held on a
- c) computer or in machine readable form R00.75
- d) For a copy in a computer – readable form on –
- e) Stiffy disc: R7.50
- f) Compact disc: R70.00
- g) For a transcription of visual images, for an A4-size page of part thereof R40.00
- h) For a copy of visual images: R60.00
- i) For a transcription of an audio record, for an A4-size page or part thereof: R20.00
- j) 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.

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 deposit by the requester.

5. The actual postage is payable when a copy of a record must be posted to requester.