

INFORMATION MANUAL

FOR

**LEGAL EXPENSES INSURANCE SOUTHERN AFRICA LIMITED
("LegalWise")**

*In terms of the Promotion of Access to Information Act 2 of 2000 for
assistance in obtaining access to information from Legal Expenses Insurance
Southern Africa Limited.*

LegalWise is an Authorised Financial Services Provider.

1. INTRODUCTION

The Constitution of the Republic of South Africa 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 was enacted on 3 February 2002 to give effect to this section of the constitution. Namely giving effect to the constitutional right of access to any information held by the state and any information that is held by another person 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 required procedures for such a request.

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. The Act states that;

- 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 TO INFORMATION

Contact Details

Any person who wishes to request any information from LegalWise with the object of protecting or exercising a right may contact the Information officer whose contact details are as follows;

Postal Address

The Information Officer
Legal Expenses Insurance Southern Africa Limited
P O Box 6144
Weltevredenpark
1715

Physical address

Constantia Ridge Office Park
Block B
764 Golf Club Terrace
Constantia Kloof
1709

Tel: (011) 670-4500
Fax (011) 679-1049
Website: www.legalwise.co.za

Prescribed Access Form

A request for access to a record of LegalWise must be made in the prescribed form to LegalWise at the address, fax number or electronic mail address given above. The form requires the requestor to provide the following information:

- sufficient information to enable the information officer to identify the requestor;
- sufficient information to enable the information officer to identify the record(s) requested;
- the form of access required;
- the requestor's postal address or fax number;
- 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 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.

For a specimen of the request form see **ANNEXURE A**.

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

Prescribed Fees

Payment of fees is regulated by the Act. There are two types of fees:

- **Request fee:** This is a non-refundable administration fee payable by all requestors who are not personal requestors. It is paid before the request is considered.
- **Access fee:** This is payable by all requestors only when access is granted. This fee is intended to reimburse LegalWise for the costs

involved in searching for a record and preparing it for delivery to the requestor.

LegalWise may withhold a record until the request fee and the deposit (if applicable) have been paid. A schedule of the prescribed fees is attached as **ANNEXURE B**.

Requestor other than Personal Requestor

The information officer must give written notice to a requestor other than a personal requestor of the request fee and amount to be paid before the request may be further processed.

If in the information officer's opinion the search for a record, or preparation of the record for disclosure will require more than the prescribed hours, the information officer may require the requestor to pay a deposit, not being more than one third of the access fee that would be payable if the request is granted. If the request is declined, the deposit must be repaid to the requestor.

The notice given by the information officer must advise the requestor that s/he has a right to apply to court against the payment of the request fee or deposit, and also advise of the procedure of the application.

Personal Requestor

A personal requestor is described in terms of the Act as a requestor seeking access to a record containing information about the requestor.

A personal requestor is not liable to pay a request fee or a deposit, but is liable for payment of access fees in the event of a request being granted.

4. HUMAN RIGHTS COMMISSION GUIDELINE

The Human Rights Commission has compiled a guide in all official languages of the Republic. This guide is intended to assist users in the interpretation of the Act. The guide contains a description of the objects 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.

An electronic copy of the guide is available on the website of the Human Rights Commission at www.sahrc.org.za.

Alternatively, copies of the Guide are also available at the following offices:

1. Office of information officers of public bodies;
2. All offices of public bodies;
3. All Magistrates Offices;
4. All offices of the Department of Justice and Constitutional Development;
5. All post offices;

6. In the Government Gazette.

The South African Human Rights Commission's contact details are as follows;

Private Bag 2700
Houghton
2041
Tel: 011 484 8300
Fax 011 4841360

5. TYPES OF RECORDS

The requestor may request access to the following types of documents;

Personnel Records

These include but are not limited to the following:

- Any personal records provided to LegalWise by their personnel;
- Any records a third party has provided to LegalWise about any of their personnel;
- Conditions of employment and other personnel-related contractual and quasi-legal records;
- Internal evaluation records; and
- Other internal records and correspondence.

Customer-related records

A customer includes any natural or juristic entity who receives services from LegalWise. Customer-related information includes but is not limited to the following:

- Any records a customer has provided to a third party acting for or on behalf of LegalWise;
- Any records a third party has provided to LegalWise; and
- Records generated by or within LegalWise pertaining to the customer, including transactional records.

Private body records

This includes but is not limited to the following:

- Financial records;
- Operational records;
- Databases;
- Information technology;
- Marketing records;
- Internal correspondence;
- Product records;
- Statutory records;
- Internal policies and procedures;
- Treasury-related records;

- Securities and equities; and
- Records held by officials of LegalWise.

Other Parties

LegalWise 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 which can be said to belong to LegalWise.

The following records fall under this category:

- Personnel, customer or LegalWise records which are held by another party as opposed to being held by LegalWise; and
- Records held by LegalWise 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.

Records Available in terms of other legislation

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

1. Administration of Estates Act, No. 66 of 1965
2. Arbitration Act No. 42 of 1965
3. Basic Conditions of Employment No. 75 of 1997
4. Companies Act No. 61 of 1973
5. Compensation for Occupational Injuries and Health Diseases Act No.130 of 1993
6. Consumer Affairs (Unfair Business Practices) Act No. 71 of 1988
7. Copyright Act No. 98 of 1978
8. Credit Agreements Act No. 75 of 1980
9. Currency and Exchanges Act No. 9 of 1933
10. Debtor Collectors Act No. 114 of 1998
11. Employment Equity Act No. 55 of 1998
12. Finance Act No. 35 of 2000
13. Financial Services Board Act No. 97 of 1990
14. Financial Relations Act No. 65 of 1976
15. Harmful Business Practices Act No. 23 of 1999
16. Income Tax Act No. 95 of 1967
17. Insolvency Act No. 24 of 1936
18. Insurance Act No 27 of 1943
19. Intellectual Property Laws Amendments Act No. 38 of 1997
20. Labour Relations Act No. 66 of 1995
21. Long Term Insurance Act No. 52 of 1998
22. Medical Schemes Act No. 131 of 1998
23. Occupational Health & Safety Act No. 85 of 1993
24. Pension Funds Act No. 24 of 1956
25. Post Office Act No. 44 of 1958
26. Protection of Businesses Act No. 99 of 1978
27. Regional Services Councils Act No. 109 of 1985
28. SA Reserve Bank Act No. 90 of 1989
29. Short Term Insurance Act No. 53 of 1998
30. Skills Development Levies Act No. 9 of 1999

31. Skills Development Act No. 97 of 1998
32. Stamp Duties Act No. 77 of 1968
33. Stock Exchange Control Act No. 1 of 1985
34. Tax on Retirement Funds Act No. 38 of 1996
35. Trade Marks Act No. 194 of 1993
36. Unemployment Contributions Act No. 4 of 2002
37. Unemployment Insurance Act No. 63 of 2001
38. Usury Act No 73 of 1968
39. Value Added Tax Act No. 89 of 1991

The Information officer will take into consideration the grounds for refusal of a request in terms of section 8 of this manual to decide on whether or not access to any of the information stated above should be given to the requestor.

6. DECISION-MAKING PROCESS

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 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, however, the record is later found, the requestor must be given access if the request would otherwise have been granted.

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 applicable access fee required to be paid, together with the procedure to be followed should the requestor wish to apply to court against such fee, and 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.

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 for records located in a different office of LegalWise not situated in the same city;
- consultation between divisions of LegalWise, 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 therefor, and the procedure involved should the requestor wish to apply to 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.

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 the private body 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.

8. GROUNDS FOR REFUSAL OF A REQUEST

LegalWise **will refuse** access to a record in accordance with one of the prescribed grounds in terms of the Act, namely:

- the unreasonable disclosure of the personal information of natural-person third parties to requestors. This includes the personal information of deceased persons. There are some exceptions to this.
- 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 interests 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 or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.
- if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.
- 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 but not limited to a computer or communication system, means of transport or any other property
 - LegalWise may also refuse a request for access to information which 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.
- The request has to be declined if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.
- LegalWise **may refuse** access to a record if the record:
 - contains trade secrets of LegalWise
 - contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of LegalWise
 - contains information which, if disclosed, could reasonably be expected to put LegalWise at a disadvantage in contractual or other negotiations, or prejudice LegalWise in commercial competition; or
 - consists of a computer program owned by LegalWise

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.

- The disclosure of information is prohibited if it is 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 LegalWise itself.

Notwithstanding any of the above-mentioned provisions, 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 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.

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 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 specified period;
- granting an interdict, interim or special relief, declaratory order or compensation; or costs.

ANNEXURE A

FORM FOR REQUEST FOR ACCESS TO A RECORD OF LEGALWISE

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 4)

Particulars of private body

Postal Address

The Information Officer
Legal Expenses Insurance Southern Africa Limited
P O Box 6144
Weltevredenpark
1715

Physical address

Constantia Ridge Office Park
Block B
764 Golf Club Terrace
Constantia Kloof
1709

Tel: (011) 670-4500
Fax (011) 679-1049
e-mail : sharmainej@legalwise.co.za
Website: www.legalwise.co.za

Particulars of 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 fax 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: _____ Fax number: _____

E-mail address: _____

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

A. 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 names and surname: _____

Identity number: _____

B. 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 record or relevant part of the record: _____

2. Reference number, if available: _____

3. Any further particulars of record: _____

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 therefor.*

Reason for exemption from payment of fees: _____

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: <hr/> <hr/> <hr/> <hr/>	Form in which record is required: <hr/> <hr/> <hr/> <hr/>
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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 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*
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3. If record consists of recorded words or information which can be reproduced in sound:

	Listen to the soundtrack (audio cassette)		Transcription of soundtrack* (written or printed document)
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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* (stiffy or compact disc)
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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?

YES NO

A postal fee is payable.

C. 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 _____ 2005

SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE

ANNEXURE B

Reproduction fees

Where a private body has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

The applicable fees for reproduction as referred to above are:

	R
* For every photocopy of an A4-size page or part thereof	1,10
* 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
* For a copy in a computer-readable form on:	
- stiffer disc	7,50
- compact disc	70,00
* A transcription of visual images, for an A4-size page or part thereof	40,00
For a copy of visual images	60,00
* A transcription of an audio record, for an A4-size page or part thereof	20,00
For a copy of an audio record	30,00
* To search for a record that must be disclosed, R30,00 per hour or part of an hour reasonably required for such search.	
* Where a copy of a record needs to be posted the actual postal fee is payable.	

Deposits

Where a private body receives a request for access to information held on a person other than the requester himself/herself and the information officer upon receipt of the request is of the opinion that the preparation of the required record for disclosure will take more than 6 (six) hours, a deposit is payable by the requester.

The amount of the deposit is equal to 1/3 (one third) of the amount of the applicable access fee.