

Manual

Of

Batchelor Smith Marais Inc (Private Body)

Prepared and compiled on 25 April 2023 in accordance with Section 51 of the Promotion of Access to Information Act, No 2 of 2000 (as amended) in respect of Batchelor Smith Marais Inc.

Registration number: 2012/197342/21

Update: 25 April 2023

Table of Contents	
1. INTRODUCTION.....	3
2. THE ACT.....	3
3. PURPOSE OF THE MANUAL.....	3
4. CONTACT DETAILS:.....	5
5. GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE.....	7
6. RECORDS AUTOMATICALLY AVAILABLE TO THE PUBLIC.....	9
7. RECORDS OF THE PRIVATE BODY.....	10
8. RECORDS REQUIRED IN TERMS OF LEGISLATION.....	12
9. PROCESSING OF PERSONAL INFORMATION.....	13
10. REQUEST PROCEDURE FOR OBTAINING INFORMATION.....	18
11. FEES.....	19
12. GROUNDS FOR REFUSAL OF ACCESS TO INFORMATION.....	20
13. DECISION.....	21
ANNEXURE A:.....	22
ANNEXURE B: FORM 2.....	23
ANNEXURE B: FORM 3.....	28

1. INTRODUCTION

Batchelor Smith Marais Incorporated trading as Batchelor Smith Marais Attorneys conducts business as attorneys, notaries and conveyancers. We are an industry expert, ready to assist any client in the registration of their property transfer or bond, antenuptial contract, administration of estates and various other legal matters.

2. THE ACT

The Promotion of Access to Information Act, No 2 of 2000 ("The Act" or "PAIA") was enacted on 3 February 2000, giving effect to the right of access to any information held by Government, as well as any information held by another person who is required for the exercising or protection of any rights. This right is entrenched in the Bill of Rights in the Constitution of South Africa. Where a request is made in terms of The Act, the body to which the request is made is not obliged to release the information, except where The Act expressly provides that the information may or must be released. The Act sets out the requisite procedural issues attached to such request.

3. PURPOSE OF THE MANUAL

In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of The Act in order for them to exercise their rights in relation to public and private bodies.

Section 9 of The Act, however, recognizes 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 that balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

This PAIA Manual assist you to-

- 3.1 check the categories of records held by Batchelor Smith Marais Inc which are available without a person having to submit a formal PAIA request;
- 3.2 have a sufficient understanding of how to make a request for access to a record of Batchelor Smith Marais Inc, by providing a description of the subjects on which Batchelor Smith Marais Inc holds records and the categories of records held on each subject;
- 3.3 know the description of the records of Batchelor Smith Marais Inc which are available in accordance with any other legislation;
- 3.4 access all the relevant contact details of the Information Officer and Deputy Information Officer(s) who will assist you with the records you intend to access;
- 3.5 know the description of the guide on how to use PAIA, as updated by the Information Regulator, and how to obtain access to it;
- 3.6 know if Batchelor Smith Marais Inc processes personal information and the purpose of processing of personal information;
- 3.7 know the description of the categories of data subjects and the information or categories of information relating thereto;
- 3.8 know the recipients or categories of recipients to whom the personal information may be supplied;
- 3.9 know if Batchelor Smith Marais Inc plans to transfer or process personal information outside the Republic of South Africa and the recipients or categories of recipients to whom the personal information may be supplied; and
- 3.10 know whether Batchelor Smith Marais Inc has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed.

4. CONTACT DETAILS:

Information Officer:

Jaco Marais

Postal Address:

PO Box 1847
Brackenfell
7561

Physical Address:

13 Dana Street
Brackenfell
7560

Telephone No:

021 981 7230

E-mail:

reception@bsmattorneys.co.za
jaco@bsmattorneys.co.za

Deputy Information Officer:

Name and Surname: Ilse-Mari Nelson

Telephone number: 021 981 7230

Email address: ilse-mari@bsmattorneys.co.za

GENERAL INFORMATION:

Name of Private Body:

Batchelor Smith Marais Inc

Registration No:
2012/197342/21

Postal Address:
PO Box 1847
Brackenfell
7561

Physical Address (or principal place of business):
13 Dana Street
Brackenfell
7560

Telephone No:
021 981 7230

E-mail:
reception@bsmattorneys.co.za
jaco@bsmattorneys.co.za

Website:
www.bsmattorneys.co.za

5. GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE

- 5.1. The Regulator has, in terms of Section 10(1) of PAIA, as amended, updated and made available the revised Guide on how to use PAIA ("Guide"), in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA.
- 5.2. The Guide is available in each of the official languages and in braille.
- 5.3. The aforesaid Guide contains the description of-
 - 5.3.1. the objects of PAIA and POPIA;
 - 5.3.2. the postal and street address, phone and fax number and, if available, electronic mail address of-
 - 5.3.2.1 the Information Officer of every public body, and
 - 5.3.2.2 every Deputy Information Officer of every public and private body designated in terms of Section 17(1) of PAIA and Section 56 of POPIA;
 - 5.3.3 the manner and form of a request for-
 - 5.3.3.1 access to a record of a public body contemplated in Section 11 of PAIA; and
 - 5.3.3.2 access to a record of a private body contemplated in Section 50 of PAIA;
 - 5.3.4 the assistance available from the Information Officer of a public body in terms of PAIA and POPIA;
 - 5.3.5 the assistance available from the Information Regulator in terms of PAIA and POPIA;

- 5.3.6 all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-
 - 5.3.6.1 an internal appeal;
 - 5.3.6.2 a complaint to the Regulator; and
 - 5.3.6.3 an application with a court against a decision by the information officer of a public body, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;
- 5.3.7 the provisions of Sections 14 and 51 of PAIA requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;
- 5.3.8 the provisions of Sections 15 and 52 of PAIA providing for the voluntary disclosure of categories of records by a public body and private body, respectively;
- 5.3.9 the notices issued in terms of Sections 22 and 54 of PAIA regarding fees to be paid in relation to requests for access; and
- 5.3.10 the regulations made in terms of Section 92 of PAIA.
- 5.4 Members of the public can inspect or make copies of the Guide from the offices of the public and private bodies, including the office of the Regulator, during normal working hours.
- 5.5 The Guide can also be obtained-
 - 5.5.1 upon request to the Information Officer;
 - 5.5.2 from the website of the Information Regulator (<https://info regulator.org.za/>).
- 5.6 A copy of the Guide is also available in two official languages, for public inspection during normal office hours.

6. RECORDS AUTOMATICALLY AVAILABLE TO THE PUBLIC

A section 52(2) notice regarding the categories of records, which are available without a person having to request access in terms of the Act, has to date not been published.

7. RECORDS OF THE PRIVATE BODY

This clause serves as a reference to the records that Batchelor Smith Marais Inc holds in order to facilitate a request in terms of The Act.

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

Incorporation Documentation:

- Documents of Incorporation
- Shareholders Agreements
- Minutes of meetings Shareholders, Management and / or staff meeting(s)
- Internal telephone list(s) and list of employees

Finance:

- VAT Records
- Income and Provisional Tax Records
- PAYE Records
- UIF Records
- SDL Records
- Audited Financial Statements
- Asset Register
- Banking details /Bank statements
- Receipts and payments
- Invoices
- Debit and credit notes
- Statement of accounts

Labour Relations:

- Workmen's Compensation

- Employee records

Operational Documents and Records:

- Promotional material
- Product / service manuals
- Customer database
- Sales records
- Company profile

8. RECORDS REQUIRED IN TERMS OF LEGISLATION

Records are kept in accordance with legislation applicable to Batchelor Smith Marais Inc, which includes but is not limited to, the following –

- Administration of Estates Act, 66 of 1965
- Basic Conditions of Employment Act, 75 of 1997
- Compensation for Occupational Injuries and Diseases Act, 130 of 1993
- Companies Act, 71 of 2008
- Consumer Protection Act, 68 of 2008
- Deeds Registries Act, 47 of 1937
- Electronic Communications & Transactions Act, 25 of 2002
- Financial Intelligence Centre Act, 38 of 2001
- Income Tax Act, 58 of 1962
- Labour Relations Act, 66 of 1995
- Legal Practice Act 28 of 2014
- Promotion of Access to Information Act, 2 of 2000
- Protection of Personal Information Act, 4 of 2013
- Sectional Titles Act, 95 of 1986
- Skills Development Act, 9 of 1997
- Skills Development Levy Act, No. 9 of 1999
- Transfer Duty Act, 40 of 1949
- Unemployment Insurance Act, 63 of 2001
- Value Added Tax Act, 89 of 1991

Reference to the above-mentioned legislation shall include subsequent amendments and secondary legislation to such legislation.

9. PROCESSING OF PERSONAL INFORMATION

9.1 Purpose of Processing Personal Information

Batchelor Smith Marais Incorporate will only process your information for the purpose for which it was originally collected. Your information will only be processed for a secondary purpose if this is compatible with the purpose for which it was first collected.

Batchelor Smith Marais Incorporated processes personal information for a number of reasons, including, but not limited to,

- providing the services requested;
- sending quotations, invoices and other financial documentation;
- general human resource functions including obligations imposed by legislation.

9.2 Description of the categories of Data Subjects and of the information or categories of information relating thereto

Categories of Data Subjects	Personal Information that may be processed
Customers / Clients	<p>These include, but are not limited to the following:</p> <ul style="list-style-type: none"> • Name • Surname • Company registration number • Employment status • ID number • VAT registration number • Address • Bank details • Contact details • Marital status • Shareholding information
Service Providers	<p>These include, but are not limited to the following:</p> <ul style="list-style-type: none"> • Name • Company registration number • VAT registration number • Address • Bank details • Contact Details
Directors	<p>These include, but are not limited to the following:</p> <ul style="list-style-type: none"> • Name • Surname • ID number

	<ul style="list-style-type: none"> • Address • Banking details • Income Tax Number • Contact details • Gender • Race
Employees	<p>These include, but are not limited to the following:</p> <ul style="list-style-type: none"> • Name • Surname • ID number • Email address • Gender . • Nationality • Driver's license details • Marital Status • Telephone number • Next of Kind details • Banking details • Address • Qualifications • PAYE Information • UIF Information • Medical Information • Tax number • Dependants information

9.3 The recipients or categories of recipients to whom the personal information may be supplied

Category of Personal Information	Recipients or Categories of Recipients to whom the personal information may be supplied
Client Information processed to comply with lawful/compliance requirements	<ul style="list-style-type: none"> - Deeds Office - South African Revenue Service - Any further regulatory body or service provider necessary in accordance with the applicable law
Employee Information to comply with lawful obligations	<ul style="list-style-type: none"> - South African Revenue Service - Unemployment Insurance Fund - Workmen's Compensation Fund - Any further regulatory body or service provider necessary in accordance with the applicable law

9.4 Planned transborder flows of personal information

The body does not have planned transborder flow of personal information.

Should a circumstance arise where your information needs to be transferred to recipients outside of South Africa, we will comply with the conditions as provided by section 72 of POPIA.

9.5 General description of Information Security Measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information

Batchelor Smith Marais Incorporated takes reasonable and adequate measures to ensure that your information is kept secure and is protected against any unauthorised or unlawful processing.

Access controls are in place, and information kept on computers are safeguarded by adequate information technology solutions regularly updated by our service providers.

We also have mandates in place with third parties to ensure the safety of your personal information.

10. REQUEST PROCEDURE FOR OBTAINING INFORMATION

Access to records held by Batchelor Smith Marais Inc

Records held by Batchelor Smith Marais Inc may be accessed by request only once the prerequisites for access have been met.

The requester must fulfil the prerequisites for access in terms of The Act, including the payment of a requested access fee.

The requester must comply with all the procedural requirements contained in The Act relating to the request for access to a record.

The requester must complete the prescribed Form 2 (Annexure B) and submit same as well as payment of a request fee and a deposit, if applicable, to the Information Officer at the postal or physical address, fax number or electronic mail address as stated herein.

The prescribed form must be filled in with enough particulars to at least enable the Information Officer to identify –

- The record or records requested;
- The identity of the requester,
- Which form of access is required, if the request is granted;
- The postal address or fax number or email address of the requester.

The requester must state that they require the information in order to exercise or protect a right, and clearly state what the nature of the right to be exercised or protected is. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

Batchelor Smith Marais Inc will process the request within 30 days, unless the requester has stated a special reason that would satisfy the Information Officer that circumstances dictate that the above time periods are not complied with.

The requester shall be informed whether access has been granted or denied in the form of Form 3 (Annexure C). If, in addition, the requester requires the reason for the decision in any other manner, they must state the manner and the particulars so required.

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.

If an individual is unable to complete the prescribed Form because of illiteracy or disability, such a person may make the request orally.

11. FEES

When the Information Officer receives the request, such Officer shall, by notice, require the requester to pay the prescribed request fee (if any), before any further processing of the request.

If the search for the record has been made in the preparation of the record for disclosure, including arrangements to make it available in the requested form, and it requires more than the hours prescribed in the regulation 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.

The Information Officer shall withhold a record until the requester has paid the Fees as indicated.

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 requested form.

If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the requester.

The fees applicable to a request for information are set out in Annexure A hereto.

The requester must pay the prescribed fee before any further processing can take place.

12. GROUNDS FOR REFUSAL OF ACCESS TO INFORMATION

The main grounds for Batchelor Smith Marais Inc to refuse a request for information relates to the:

- Mandatory protection of the privacy of a third party that is a natural person that would involve the unreasonable disclosure of personal information of that natural person;
- Mandatory protection of the commercial information of a third party, if the record contains:
 - o Trade secrets of that third party;
 - o Financial, commercial, scientific or technical information, disclosure of which could likely cause harm to the financial or commercial interests of that third party;
 - o Information disclosed in confidence by a third party to the Private Body, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- Mandatory protection of confidential information of the protection of property;
- Mandatory protection of records that would be regarded as privileged in legal proceedings;
- The commercial activities of Batchelor Smith Marais Inc which may include:
 - o Trade secrets of Batchelor Smith Marais Inc
 - o Financial, commercial, scientific or technical information, disclosure which could likely cause harm to the financial or commercial interest of Batchelor Smith Marais Inc ;
 - o Information which, if disclosed could put Batchelor Smith Marais Inc at a disadvantage in negotiations or commercial competition;
 - o A computer program, owned by Batchelor Smith Marais Inc and protected by copyright.
- The research information of Batchelor Smith Marais Inc or a third party, if its disclosure would reveal the identity of Batchelor Smith Marais Inc, 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 would involve an unreasonable diversion of resources shall be refused.

13. DECISION

Batchelor Smith Marais Inc will within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

The requester shall be informed whether access has been granted or denied in the form of Form 3 (Annexure C). If, in addition, the requester requires the reason for the decision in any other manner, they must state the manner and the particulars so required.

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

AVAILABILITY OF THE MANUAL

The manual of Batchelor Smith Marais Inc is available at the premises of Batchelor Smith Marais Inc as well as on the website of Batchelor Smith Marais Inc.

Signed by:  _____

Date: 25/04/2023 _____

ANNEXURE A:

The table below sets out the fees applicable to any request for a record of information held by

Item	Description	Amount
1.	The request fee payable by every requester	R 140.00
2.	Photocopy/printed black & white copy of A4-size page	R 2.00 per page or part thereof
3.	Printed copy of A4-size page	R 2.00 per page or part thereof
4.	For a copy of computer-readable form on: (i) Flash drive (to be provided by the requestor) (ii) Compact Disk: a. If provided by requester b. If provided to the requester	R 40.00 R 40.00 R 60.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced.
6.	For a copy of visual images	Will depend on quotation from service provider.
7.	Transcription of an audio record, per A4-size page	R 24.00
8.	For a copy of audio recording on: (i) Flash drive (to be provided by the requestor) (ii) Compact Disk: a. If provided by requester b. If provided to the requester	R 40.00 R 40.00 R 60.00
9.	To search for and prepare the record for disclosure, for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. Not to exceed a total cost of	R 145.00 R 435.00
10.	Deposit: If search exceeds 6 hours	One third of the amount per request calculated in terms of items 2 to 8.
11.	Postage, email or any other electronic transfer	Actual expense, if any.

ANNEXURE B: FORM 2

REQUEST FOR ACCESS TO RECORD
[Regulation 7]

NOTE:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The Information Officer

(Address)

E-mail address: _____

Fax number: _____

Mark with an "X"

- Request is made in my own name Request is made on behalf of another person.

PERSONAL INFORMATION			
Full Names			
Identity Number			
Capacity in which request is made <i>(when made on behalf of another person)</i>			
Postal Address			
Street Address			
E-mail Address			
Contact Numbers	Tel. (B):		Facsimile:
	Cellular:		

Full names of person on whose behalf request is made <i>(if applicable)</i> :			
Identity Number			
Postal Address			
Street Address			
E-mail Address			
Contact Numbers	Tel.(B)		Facsimile
	Cellular		
PARTICULARS OF RECORD REQUESTED			
<i>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. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)</i>			
Description of record or relevant part of the record:			
Reference number, if available			
Any further particulars of record			

TYPE OF RECORD <i>(Mark the applicable box with an "X")</i>	
Record is in written or printed form	
Record comprises virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	
FORM OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Printed copy of record <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of record on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of record on compact disc drive <i>(including virtual images and soundtracks)</i>	
Copy of record saved on cloud storage server	

MANNER OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Personal inspection of record at registered address of public/private body <i>(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)</i>	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format <i>(including transcriptions)</i>	
E-mail of information <i>(including soundtracks if possible)</i>	
Cloud share/file transfer	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED

If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.

Indicate which right is to be exercised or protected	
Explain why the record requested is required for the exercise or protection of the aforementioned right:	

FEES

- a) A request fee must be paid before the request will be considered.*
- b) You will be notified of the amount of the access fee to be paid.*
- 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*

Reason	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication <i>(Please specify)</i>

Signed at _____ this _____ day of _____ 20 _____

Signature of Requester / person on whose behalf request is made

FOR OFFICIAL USE

<i>Reference number:</i>	
<i>Request received by: (State Rank, Name and Surname of Information Officer)</i>	
<i>Date received:</i>	
<i>Access fees:</i>	
<i>Deposit (if any):</i>	

Signature of Information Officer

ANNEXURE B: FORM 3

OUTCOME OF REQUEST AND FEES PAYABLE

[Regulation 8]

Note:

1. *If your request is granted the—*
 - (a) *amount of the deposit, (if any), is payable before your request is processed; and*
 - (b) *requested record/portion of the record will only be released once proof of full payment is received.*
2. *Please use the reference number hereunder in all future correspondence.*

Reference number: _____

TO: _____

Your request dated _____, refers.

1. You requested:

Personal inspection of information at registered address of public/private body <i>(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)</i> is free of charge. You are required to make an appointment for the inspection of the information and to bring this Form with you. If you then require any form of reproduction of the information, you will be liable for the fees prescribed in Annexure A.	
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OR

2. You requested:

Printed copies of the information <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of information on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of information on compact disc drive <i>(including virtual images and soundtracks)</i>	
Copy of record saved on cloud storage server	

4. Fees payable with regard to your request:

<u>Item</u>	<u>Description</u>	<u>Amount</u>	<u>Number of pages/items</u>	<u>Total:</u>
1.	The request fee payable by every requester	R 140.00		
2.	Photocopy/printed black & white copy of A4-size page	R 2.00 per page or part thereof		
3.	Printed copy of A4-size page	R 2.00 per page or part thereof		
4.	For a copy of computer-readable form on: (i) Flash drive (to be provided by the requestor) (ii) Compact Disk: a. If provided by requester b. If provided to the requester	R 40.00 R 40.00 R 60.00		
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from service provider.		
6.	For a copy of visual images			
7.	Transcription of an audio record, per A4-size page	R 24.00		
8.	For a copy of audio recording on: (i) Flash drive (to be provided by the requestor) (ii) Compact Disk: a. If provided by requester b. If provided to the requester	R 40.00 R 40.00 R 60.00		
9.	To search for and prepare the record for disclosure, for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. Not to exceed a total cost of	R 145.00 R 435.00		
10.	Deposit: If search exceeds 6 hours	One third of the amount per request calculated in terms of items 2 to 8.		
11.	Postage, email or any other electronic transfer	Actual expense, if any.		
	<u>TOTAL:</u>			

5. Deposit payable (if search exceeds six hours):

Yes

No

Hours of search		Amount of deposit <i>(calculated on one third of total amount per request)</i>	
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The amount must be paid into the following Bank account:

Name of Bank: _____
Name of account holder: _____
Type of account: _____
Account number: _____
Branch Code: _____
Reference No.: _____
Submit proof of payment to: _____

Signed at _____ this _____ day of _____ 20 _____

Information officer