

SEA ESCAPES SODWANA BAY

Prepared in accordance with Section 51 of the Promotion of Access to Information Act, No 2 of 2002

1. INTRODUCTION

1.1 PURPOSE OF THE ACT

RECOGNISING *inter alia* THAT:

- Section 32(1) (a) of the Constitution provides that everyone has the right to access to any information held by state and
- Section 32(1) (b) of the Constitution provides for the horizontal application of the rights of access to information held by another person to everyone **when that information is required for the exercise or protection of any rights**

AND IN ORDER TO –

- Foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information
- Actively promote a society in which the people of South Africa have effective access to information.

The Promotion of Access to Information Act, 2 of 2002 (“the Act”) was enacted to give effect to the constitutional right to access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights.

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

1.2 MAIN BUSINESS OF SEA ESCAPES SODWANA BAY

Sea Escapes Sodwana Bay is a close corporation with main business activity being that of providing hospitality and scuba diving activities

PART 1

SECTION 51(1)(a) OF THE ACT

2. Contact details:

Details required in terms of section 51(1)(a)

Contact Person:

Member : L J Cooke

Postal Address: P.O. Box 1501
Sodwana Bay
3974

Physical Address: Olakeni
Mbazwana

Phone Number: 082 853-2905

Facsimile number: 035 571-7366

E-Mail: lindsayc@seaescapes.co.za

Web Site: www.seaescapes.co.za

PART 11

(SECTION 51(1)(b) OF THE ACT

3. GUIDE IN TERMS OF SECTION 10 OF THE ACT

The Guide will be available from the South African Human Rights Commission by not later than August 2003. Please direct any queries to:

The South African Human Rights Commission: PAIA Unit
The Research and Documentation Department

Postal address: Private Bag 2700

Houghton, 2041

Telephone: +27 11 484-8300

Fax: +27 11 484-0582

Website: www.sahrc.org.za

E-mail: PAIA@sahrc.org.za

PART 111

SECTION 51(1)(c) & 51(1)(e) OF THE ACT

4. RECORDS OF SEA ESCAPES SODWANA BAY

This clause serves as a reference to the records that the company holds in order to facilitate a request in terms of the Act.

The information is classified and grouped according to records relating to the following subjects and categories:

It is recorded that the accessibility of the documents listed herein below is subject to the grounds of refusal set out in the Act.

4.1 PERSONNEL RECORDS

- 4.1.1 Personal records provided by personnel;
- 4.1.2 Records provided by a third party relating to personnel;
- 4.1.3 Conditions of employment and other personnel-related contractual and quasi-legal records;
- 4.1.4 Payroll records;
- 4.1.5 Internal evaluation records;
- 4.1.6 Correspondence relating to personnel;
- 4.1.7 Training records;
- 4.1.8 Disciplinary records

“Personnel” refers to any person who is employed by the company, and receives or is entitled to receive remuneration. This includes without limitation, directors, all permanent, and part-time staff.

4.2 CUSTOMER/CLIENT RECORDS

- 4.2.1 Records generated by or within the company pertaining to its customers/clients, including transactional records;

A “customer/client” refers to any natural or juristic entity that receives services from the company.

- 4.2.2 Record provided by customer/client acting for or on behalf of the company

4.3 PRIVATE BODY RECORDS

- 4.3.1 Financial records;
- 4.3.2 Databases;
- 4.3.3 Marketing records;
- 4.3.4 Internal Policies and Procedures;
- 4.3.5 Information Technology and Software licences.

SECTION 51(1)(d) OF THE ACT

5. RECORDS THAT ARE VOLUNTARY AVAILABLE AND DO NOT REQUIRE A REQUEST IN TERMS OF THE ACT INCLUDE:

Information is available in terms of the following legislation, if and where applicable:

- Basic Conditions of Employment Act No. 75 of 1997
- Closed Corporation Act No. 69 of 1984
- Compensation of Occupational Injuries and Diseases Act No. 130 of 1993
- Employment Equity Act No. 55 of 1998
- Income Tax Act No. 58 of 1962
- Labour Relations Act No. 66 of 1995
- Occupational Health and Safety Act No. 85 of 1993
- Promotion of Access to Information Act No. 2 of 2000
- Skills development Levies Act No. 9 of 1999
- Unemployment Insurance Act No. 30 of 1966

Product brochure and advertising material which is available on the Company website.

PART IV

6. GROUND FOR REFUSAL OF ACCESS TO RECORDS

- 6.1 The grounds for refusal are set out in the Act. The main grounds for the company to refuse a request for information relate to the:
 - 6.1.1 mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;

- 6.1.2 mandatory protection of the commercial information of a third party, if the record contains:
 - 6.1.2.1 trade secrets of the third party;
 - 6.1.2.2 financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the third party;
 - 6.1.2.3 information disclosed in confidence by a third party to the company, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- 6.1.3 mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- 6.1.4 mandatory protection of the safety of individuals and the protection of property;
- 6.1.5 mandatory protection of records which would be regarded as privileged in legal proceedings;
- 6.1.6 the commercial activities of the company, which may include:
 - 6.1.6.1 trade secrets of the company;
 - 6.1.6.2 financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the company;
 - 6.1.6.3 information which, if disclosed could put the company at a disadvantage in negotiations or commercial competition;
 - 6.1.6.4 a computer program which is owned by the company, and which is protected by copyright;
 - 6.1.6.5 the research information of the company or a third part, if its disclosure would disclose the identity of the company, 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 vexation, or which involve an unreasonable diversion of resources shall be refused.

7. REQUEST PROCEDURE

- The requester must use the prescribed form to make the request for access to a record. This must be made to the nominated contact person of the private body. This request must be made to the address, fax number or electronic mail address of the body concerned [s 53(1)].
- The requester must provide sufficient detail on the request form to enable the contact person to identify the record and the requester. The requester should also indicate which form of access is required. The requester should also indicate if any other manner is to be used to inform the requester and state the necessary particulars to be so informed [s 53(2)(a) and (b) and (c)].

- The requester must identify the right that is sought to be exercised or to be protected and provide an explanation of why the requested record is required for the exercise or protection of that right [s 53(2)(d)].
- If a request is made on behalf of another person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the head of the private body [s 53(2)(f)].

8. FEES:

A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:

- The head of the private body must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request [s 54(1)].
- The fee that the requester must pay to a private body is R50. The requester may lodge an application to the court against the tender or payment of the request fee [s 54(3)(b)].
- After the head of the private body has made a decision on the request, the requester must be notified in the required form.
- If the request is granted then a further access fee must be paid for the search, reproduction, and preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure [s 54(6)].

9. OTHER INFORMATION AS MAY BE PRESCRIBED [Section 51(1)(f)]

The Minister of Justice and Constitutional Development has not made any regulations in this regard.

10. APPLICATION REGARDING DECISIONS

A requester that is dissatisfied with the decision of Sea Escapes Sodwana Bay, may subject to the provisions of the Act within 30 days of notification of the decision, apply to the Court for appropriate relief.

11. AVAILABILITY OF THE MANUAL [Section 51(3)]

This manual is made available in terms of Regulation Number R.187 of 15 February 2002.