

Promotion of Access to Information Act Manual

In terms of Section 51 of the Promotion of Access to Information Act, no 2 of 2002

May 2013



ASHBURTON
INVESTMENTS
Focused Insight

A part of the FirstRand Group

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A. Information under Section 51 (1)(a) of the Act

Ashburton Investment Holdings Limited

Company Registration Number	1995/004798/06
Vat Registration Number	
Tax Income Number	
Company registered address	4 Merchant Place, Corner Fredman Drive and Rivonia Road, Sandton 2196
Company business address	2 Merchant Place, 2nd Floor, Corner Fredman Drive and Rivonia Road, Sandton 2196
Company postal address	PO Box 650149, Benmore, Gauteng 2010
Website	www.ashburtoninvestments.com
Telephone number	(011) 282 8088
Fax number	(011) 384 3537
Shareholders details	FirstRand Limited
Company officer	Leon Coetzee
Chief Executive Officer	Boshoff Grobler
Chief Investment Officer	Paolo Senatore
Chief Information Officer	Duncan Armstrong
Chief Operating Officer	Caryn Nicolai
Chief Financial Officer	Richard Pampel
Head Legal and Compliance	Segabe Ditodi
Company directors	B Grobler P Senatore J van Staden C Nicolai R Pampel
Company secretary	B Unser

B. Description of PAIA guide referred to in Section 10: Section 51(1)(b)

A guide has been compiled in terms of Section 10 of PAIA by the Human Rights Commission. It contains information required by a person wishing to exercise any right, contemplated by PAIA. It is available in all of the official languages.

The Guide is available for inspection, inter alia, at the office of the offices of the Human Rights Commission at Braampark forum 3, 33 Hoofd Street, Braamfontein, and on its website at www.sahrc.org.za.

The Guide describes in each official language:

- what the objects of the Act are;
- the details of each private body (where possible);
- the process that needs to be followed in order to make a request;
- how to get copies of the Guide at no charge;
- how to get access to the manual of a private body; and
- all the remedies available in law to you.

The Guide will be printed in each official language in the Government Gazette.

Please direct queries to:

The South African Human Rights Commission:

PAIA Unit – The Research and Documentation Department

Postal address: Private Bag 2700 HOUGHTON 2041

Telephone: +27 (0)11 877 3600

Fax: +27 (0)11 403 0625

Website: www.sahrc.org.za

E-mail: PAIA@sahrc.org.za

For your convenience and information, some extracts of the Guide are summarised below. Note that these extracts are abridged and do not purport to be a full or accurate copy. Please refer to the original guide.

PAIA GUIDE ABRIDGED EXTRACTS

INTRODUCTION

Section 32(1)(a) of the Constitution of the Republic of South Africa Act, No 108 of 1996 provides that everyone has a right of access to any information held by the state and any information held by another person that is required for the exercise or protection of any rights.

1. The Promotion of Access to Information Act

The Promotion of Access to Information Act, No.2 of 2000 (hereinafter referred to as "PAIA") is the national legislation which was enacted to give effect to the constitutional right of access to information. PAIA came into operation on 9 March 2001, with the exception of sections 10, 14, 15 and 51, which came into operation on 15 February 2002.

2. The role and responsibility of the South African Human Rights Commission

As a national institution responsible for protecting, promoting and monitoring the enjoyment of human rights, the Commission is obliged to assist where reasonably possible any person who wishes to exercise a right in terms of PAIA.

ACCESS TO INFORMATION

PAIA gives all South Africans the right to have access to records held by the state, government institutions and private bodies.

1. The following are the objectives which PAIA seeks to achieve:

To ensure that the state takes part in promoting a human rights culture and social justice;

To encourage openness and to establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner as reasonably possible;

To promote transparency, accountability and effective governance of all public and private bodies, by empowering and educating everyone to understand their rights in terms of PAIA so that they are able to exercise their rights in relation to public and private bodies, to understand the functions and operation of public bodies, and

To effectively scrutinise, and participate in decision making by public bodies that affects their rights.

2. The Guide distribution centres

The Guide is available in each official language free of charge for public inspection during office hours at various places mentioned below.

Any person may request to have a copy of the Guide. You have to pay only if you want to make copies. The fee payable is R0.60c per every photocopy of an A4 size or part thereof.

3. Copies of the Guide are available at the following places:

At the office of the head of the national department responsible for government communication: Government Communications and Information Services (GCTS);

At the following places of legal deposit as defined in section 6 of the Legal Deposit Act of 1997 (Act No. 54 of 1997):

- Library of Parliament, Cape Town;
- The South African Library, Cape Town;
- Natal Society Library, Pietermaritzburg;
- The State Library in Pretoria;
- City Library Services , Bloemfontein;
- The National Film, Video and Sound Archives, Pretoria;
- Any other library or institution prescribed by the Minister of Justice and Constitutional Development for the purposes of certain prescribed categories of documents; and
- Every tertiary education institutions established by or under any law.

4. Copies of the Guide are also available in all official languages at the following offices:

- Office of information officers of public bodies;
- All offices of public bodies;
- All Magistrates' offices;
- All offices of the Department of Justice and Constitutional Development;
- All post offices; and
- In the Government Gazette.

The Guide is also available at all offices and on the website of the South African Human Rights Commission, (www.sahrc.org).

THE MANUALS

The manuals are produced by all public bodies as well as private bodies and contain information on how to use PAIA to access the records of public and private bodies. If you want to know about the records that are held by a private body or public body you simply ask for their information manual.

HOW TO MAKE A REQUEST FOR ACCESS TO INFORMATION

A request for access to a record is made by completing a request form called Form C for private bodies. The request form must be completed and submitted to the information officer of the public body or head of the private body from whom access to a record is sought.

The information officer must respond to the request within 30 days.

The forms are available from the offices and website of the South African Human Right Commission at www.sahrc.org.za.

1. Manner of request

A requester has a right of access to a record of a private body and must be given access to a record of a public body or private body if the requester complies with the following procedural requirements:

That the request is made on the request form to the information officer of the public body or head of a private body; That the completed request form is faced or electronically mailed or hand delivered to the information officer of the private body concerned; and

That access to the requested record is not refused in terms of any of the grounds for refusal under PAIA.

2. How to fill the request form –

The request must be made to the information officer or head of the private body at their address, fax number or electronic mail address.

In the request form, the requester is required to provide the following information:

- Sufficient particulars to identify the requester;
- Sufficient particulars to identify the record, including the reference number, if that is known to the requester;
- Clearly indicate the form of access or nature of the record in which the record should be provided;
- The postal address or fax number of the requester in the Republic;
- State the manner in which the requester would like to be informed about the decision on the request;
- If the request is made on behalf of another person, to submit proof of the capacity in which the requester is making the request; and
- In the case of a private body, the requester must state the right that is to be exercised or protected and why the record requested is required for the exercise or protection of such right.

3. Who can make a request for access to record?

A requester may make a request for access to records of a private or public body. The requester's right to a record of a private or public body includes a right of access to a record containing personal information about the requester, or a person on whose behalf the request is made.

4. Costs of requests – private bodies

The head of a private body to whom the request is made will notify you in writing to pay the prescribed request fee, if any, before processing the request. If you require access to records of your personal information, you do not have to pay a request fee.

If the request for access is refused, the notice must state the adequate reasons for the refusal, including the provisions of PAIA relied upon. The notice must also state that the requester may lodge an internal appeal or an application with a court, as the case may be, against the refusal of the request and must indicate the procedure and the period, for lodging the internal appeal or application, as the case may be.

5. Legal remedies

You have a right to take further legal steps if the information officer refuses you access to a record you have requested and you had complied with all the requirements of the Act in making the request.

WHEN ACCESS TO INFORMATION MAY BE REFUSED

PAIA balances the requester's constitutional right to information against the information officer's or a head of a private body's right to refuse access to information, if granting the information would harm the public or private body in question on any of the grounds mentioned below.

1. Grounds for refusal of access to records of a private body

The information contained in this section is a summary of the grounds upon which a private body is entitled to raise, as grounds for the refusal of access to its records. The information is intended to provide a requester with clarity as to the reasons why a request may be refused by the private body. The list is a summary of the grounds contained in Part 3, Chapter 4 of PAIA, and is by no means exhaustive.

2. Mandatory protection of privacy of a third party who is a natural person

The head of a private body must refuse a request for access to a record of that body if its disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual. However, a record may not be refused if it consists of information;

- About an individual who has consented in writing to the disclosure of the information;
- Already publicly available;
- About an individual who is deceased and the requester is the individual next of kin, or is making the request with the written consent of the individual's next of kin; and
- About an individual who is or was an official of a private body, and the information relates to the position or functions of the individual.

3. Mandatory protection of commercial information of a third party

The head of a private body must refuse a request for access to a record of that private body if the information contains:

- trade secrets of a third party;
- financial, commercial, scientific or technical information of a third party, other than trade secrets, where the disclosure thereof would likely to cause harm to the commercial or financial interests of that third party; and
- information supplied to the third party in confidence, and if disclosed would place the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition.

However, a record may not be refused if it consists of information about a third party who has already consented in writing, to its disclosure to the requester.

4. Mandatory protection of certain confidential information of a third party

The head of a private body must refuse a request for access to a record of that body, if its disclosure would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement.

5. Mandatory protection of records privileged from production in legal proceedings

The head of a private body must refuse a request for access to a record of that body, if the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived such privilege.

6. Commercial information of a private body

The head of a private body may refuse a request for access to a record of that body if the record:

- contains trade secrets of the private body;
- contains financial, commercial, scientific or technical information, other than trade secrets of the private body, and the disclosure thereof would likely to cause harm to the commercial or financial interests of that body;
- contains information, the disclosure of which could reasonably be expected to put the private body at a disadvantage in contractual or other negotiations;
- or prejudice the body in commercial competition; and
- is a computer programme as defined in the Copyright Act, No. 98 of 1978, which is owned by the private body, unless it is required to give access to a record in terms of PAIA.

7. Mandatory protection of research information of a third party, and protection of research information of a private body

The head of a private body must refuse a request for access to a record of that body, if the record contains information about research being carried out, by or on behalf of a third party, and if this were to be disclosed, it

would be likely to expose the third party or the person carrying out the research or will be carrying out the research on behalf of the third party, or the subject matter of the research, to a serious disadvantage.

The head of a private body may refuse a request for access to a record of that body, if the record contains information about research being carried out or about to be carried out, by or on behalf of the private body, and if this were to be disclosed, it would likely to expose the private body or the person carrying out the research or will be carrying out the research on behalf of the private body, or the subject matter of the research to a serious disadvantage.

8. Mandatory disclosure in the public interest

Despite the above listed grounds for refusal, the head of a private body must grant a request for access to a record of that body if the disclosure thereof would reveal evidence of:

- a substantial contravention of, or failure to comply with the law; or
 - an imminent and serious public safety or environmental risk; and
 - the public interest in the disclosure of the record, outweighs the harm contemplated under the ground for refusal.
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C. The latest notice(s) in terms of Section 52(2)

At this stage no notice(s) has/have been published on the categories of records that are automatically available without a person having to request access in terms of PAIA.

D. Introduction to Ashburton Investments

Ashburton Investments is a company registered in South Africa in accordance with the Companies Act, 71 of 2008. Its ultimate parent company is FirstRand Limited (Reg. No 1966/01753/06), a company listed on the Johannesburg Stock Exchange.

New generation investment manager

At Ashburton Investments, our approach is to understand our clients' individual needs and to gain insight into the strategic investment challenges they face.

More sources of return

We harness more sources of return to create appropriate solutions for our clients. Our holistic investment approach spans traditional and non-traditional asset classes as well as conventional and unconstrained investment styles to provide our clients with sustainable returns.

Broader investment capabilities

Our unique ability to source investment opportunities from within the wider FirstRand Group is offered to clients, either through an appropriate investment vehicle or as a co-investment opportunity.

Increased focus on risk management

We have a risk management mindset and an unwavering determination to do the right thing for investors.

In our role as investment manager and originator of investment opportunities, we construct solutions within a strategic risk framework to better meet the needs of our clients.

Deeper investment insight

We believe in the importance of deeper investment insight. We focus on our clients' needs to understand the broader context of their requirements, and draw on our breadth of capabilities and depth of knowledge to offer more access to investment propositions.

Ashburton Investments is incorporated under the laws of South Africa.

The executive management structure has been in place since 1 June 2013 and is led by Boshoff Grobler. Details of the current management structure are available on our website and on request from our Chief Information Officer.

In establishing business relationships or conducting single transactions, Ashburton Investments will establish or verify and keep records of, in accordance with the Financial Intelligence Centre Act, 38 of 2001, the identity of every client on whose behalf Ashburton Investments will act or establish a business relationship.

E. Contact details

Company registered address	4 Merchant Place, Corner Fredman Drive and Rivonia Road, Sandton 2196
Company business address	2 Merchant Place, 2nd Floor, Corner Fredman Drive and Rivonia Road, Sandton 2196
Company postal address	PO Box 650149, Benmore, Gauteng 2010
Website	www.ashburtoninvestments.com
Telephone number	(011) 282 8088
Facsimile number	(011) 384 3537

F. Details on how to make a request for access – Section 51(e)

The requester must complete Form C and submit this form together with a request fee, to the Chief Information Officer of Ashburton Investments.

The form must:

- provide sufficient particulars to enable the Chief Information Officer to identify the record/s requested and to identify the requester;
- indicate which form of access is required;
- specify a postal address or fax number of the requester is seeking to exercise or protect, and provide an explanation as to why the requested record is required for the exercise or protection of that right.

If in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, state that manner and the necessary particulars to be informed in the other manner.

If the request is made on behalf of another person, submit written and adequate proof of the capacity in which the requester is making the request.

Once complete, the request must be addressed and mailed to:

The Chief Information Officer
Ashburton Investments
PO Box 782027
Sandton
2146

G. Records available in terms of other legislation: Section 51(1)(d)

All records that can be accessed without the submission of a formal request (i.e. a formal request as defined by the Promotion of Access to Information Act) can be accessed by contacting our Chief Information Officer. Additionally, we are required to ensure that certain records are available in terms of other legislation, which are mentioned below:

- Basic Conditions of Employment Act 75 of 1997
- Collective Investment Schemes Control Act 45 of 2002

- Companies Act 71 of 2008
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Consumer Affairs (Unfair Business Practices) Act 71 of 1988
- Copyright Act 98 of 1978
- Credit Agreements Act 75 of 1980
- Currency and Exchanges Act 9 of 1933
- Debtor Collectors Act 114 of 1998
- Employment Equity Act 55 of 1998
- Finance Act 35 of 2000
- Financial Advisory and Intermediary Services Act 37 of 2002
- Financial Intelligence Centre Act 38 of 2001
- Harmful Business Practices Act 23 of 1999
- Income Tax Act 95 of 1967
- Insolvency Act 24 of 1936
- Intellectual Property Laws Amendments Act 38 of 1997
- Labour Relations Act 66 of 1995
- Long-Term Insurance Act 52 of 1998
- Occupational Health & Safety Act 85 of 1993
- Pension Funds Act 24 of 1956
- Prevention of Organised Crime Act 121 of 1998
- Protection of Businesses Act 99 of 1978
- Regional Services Councils Act 109 of 1985
- SA Reserve Bank 90 of 1989
- Security Services Act 36 of 2004
- Skills Development Levies Act 9 of 1999
- Skills Development Act 97 of 1998
- Stamp Duties Act 77 of 1968
- Tax on Retirement Funds Act 38 of 1996
- Trade Marks Act 194 of 1993
- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001
- Usury Act 73 of 1968
- Value Added Tax 89 of 1991

Please note that while we have made every effort to identify all pertinent legislation, we cannot guarantee that all legislation has been included. Should you be aware of any specific legislation that should be included and which has been omitted, please contact our Chief Information Officer.

H. Subjects and categories of records held by Ashburton Investments – Section 51(1)(e)

We set out below the subjects/categories and some examples of the records that are held by Ashburton Investments and which may be the subject of a request for the purpose of the Act. Please note that our records can be found in various forms including electronic or paper.

1. COMPANIES ACT RECORDS

- Documents of incorporation
- Memorandum of Incorporation
- Minutes of Board of Directors meetings
- Records relating to the appointment of directors / auditors / secretary / public officer and other officers
- Share Register and other statutory registers
- Annual Financial Statements
- Tax Returns

- Accounting Records
- Banking Records, Bank Statements,
- Electronic banking records
- Asset Registers
- Rental Agreements
- Invoices
- Property / equity held or owned
- Financial report, balance sheets, income statement
- Announcements
- Interim results

2. REVENUE RECORDS

- PAYE records
- Documents issued to employees for income tax purposes
- Records of payments made to SARS on behalf of employees
- All other statutory compliances
- VAT
- Regional Services Levies
- Skills Development Levies
- UIF records
- Workmen's Compensation

3. PERSONEEL DOCUMENTS AND RECORDS

- Employment contracts
- Employment Equity Plan (if applicable)
- Medical Aid records
- Pension Fund records
- Disciplinary records
- Salary records
- SETA records
- Disciplinary code
- Training records
- Training Manuals

4. BUSINESS & OPERATIONAL RECORDS

- Strategy, policy & mission statements
- Business plans
- Minutes of Meetings
- Internal circulars
- Operational records
- E-Mails
- Business process and activity documentation
- Contractors' records
- Contracts
- Quotations
- Product/ Service specifications
- Policyholder and investor records
- Investor information
- Investment-related documentation
- Policy-related documentation

5. SHAREHOLDERS RECORDS

- AGM minutes
- Shareholder information
- Subsidiary records

6. DIRECTORS' RECORDS

- Financial Information

- Personal Information

7. TECHNOLOGY RECORDS

- Product/ service specifications
- Minutes of meetings

8. MARKETING AND CUSTOMER RELATIONS RECORDS

- Advertising
- Public relations
- Promotional material
- Description of products & services
- Correspondence

9. COMPLIANCE RECORDS

- Minutes of meetings
- Memos/ reports
- Investigation documents
- Statutory information

I. CATEGORIES OF INFORMATION PUBLICLY AVAILABLE

We list hereunder categories of information that are already publicly available without you have to request access in terms of the Act:

- Group (shareholder) annual financial statements
- Group (shareholder) interim audited report
- Press announcements
- Marketing / product material
- Information on the Ashburton Investments website

J. AVAILABILITY OF THE PAIA MANUAL

A copy of this manual may be inspected at the offices of Ashburton Investments, free of charge or viewed and printed from our website: www.ashburtoninvestments.com

Copies are also available from the South African Human Rights Commission.