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# PAIA MANUAL

in terms of

Section 51 of The Promotion of Access to Information Act 2/2000

& Protection of Personal Information Act 4/2013 (the "ACT")

**THE KEMPSTON GROUP** which comprises of the following companies:

- Kempston Investments (Pty) Ltd
- Garrett Assemblies CC
- Vincemus Investments (Pty) Ltd
- Kempston Trading (Pty) Ltd
- Decillion Capital (Pty) Ltd
- VINCOT Trust
- Edcot Trust
- VANCOT Trust

(hereafter referred to as the "**Company**")

## 1. INTRODUCTION:

The Kempston Group is an Umbrella company with a group of diverse companies with core interests in the truck hire, motor vehicle industry, logistics, permanent and flexible staffing sectors, training, property, financial services and other. For further information see our website: [www.kempston.co.za](http://www.kempston.co.za).

## 2. COMPANY CONTACT DETAILS (Section 51 (1) (a)):

### **Persons designated/duly authorised persons:**

|                             |   |
|-----------------------------|---|
| <b>Directors:</b>           | ACP COTTERELL, A BHIKA, BM NAUDE and VPG COTTERELL, |
| <b>CEO:</b>                 | ACP COTTERELL                                       |
| <b>Information Officer:</b> | George Murdoch                                      |
| <b>Telephone number:</b>    | 043 707 1710  |
| <b>Fax number:</b>          | 086 206 8866  |
| <b>E-mail address:</b>      | InformationOfficer@kempston.co.za                   |

### **Head Office Details:**

|                          |   |
|--------------------------|---|
| <b>Street Address:</b>   | 69 Old Transkei Road, Nahoon, East London, 5201 |
| <b>Telephone Number:</b> | 043 707 1700                                    |
| <b>Fax Number:</b>       | 086 206 8866                                    |
| <b>Email address:</b>    | info@kempston.co.za                             |

## 3. THE ACT

- 3.1 The ACT grants a requester access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.
- 3.2 Requests in terms of the ACT shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.
- 3.3 Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC.

The contact details of the Commission are:

**Postal Address:** Private Bag 2700, Houghton, 2041  
**Telephone Number:** +27-11-877 3600  
**Fax Number:** +27-11-403 0625  
**Website:** www.sahrc.org.za

#### 4. APPLICABLE LEGISLATION (Section 51 (1) (c)).

| No | Ref                      | Act  |
|----|--------------------------|--|
| 1  | No 42 of 1965            | Arbitration Act                                  |
| 2  | No 61 of 1973 as amended | Companies Act                                    |
| 3  | No 53 of 1979            | Attorneys Act                                    |
| 4  | No 98 of 1978            | Copyright Act                                    |
| 5  | No 55 of 1998 as amended | Employment Equity Act                            |
| 6  | No 95 of 1967            | Income Tax Act                                   |
| 7  | No 66 of 1995            | Labour Relations Act                             |
| 8  | No 89 of 1991            | Value Added Tax Act                              |
| 9  | No 37 of 2002            | Financial Advisory and Intermediary Services Act |
| 10 | No 75 of 1997 as amended | Basic Conditions of Employment Act               |
| 11 | No 4 of 2013             | Protection of Personal Information Act           |
| 12 | No 25 of 2002            | Electronic Communications and Transactions Act   |
| 13 | No 69 of 1984 as amended | Close Corporation Act                            |
| 14 | No 130 of 1993           | Compensation for Occupational and Diseases Act   |
| 15 | No 2 of 2000             | Promotion of Access of Information Act           |
| 16 | No 63 of 2001            | Unemployment Insurance Act                       |
| 17 | No 68 of 2008            | Consumer Protection Act                          |
| 18 | No 38 of 2001            | Financial Intelligence Centre Act                |
| 19 | No 24 of 1936            | Insolvency Act                                   |
| 20 | No 27 of 1943            | Insurance Act                                    |
| 21 | No 38 of 1997            | Intellectual Property Laws Amendments Act        |
| 22 | No 127 of 1992           | Interception and Monitoring Prohibition Act      |
| 23 | No 52 of 1998            | Long Term Insurance Act                          |
| 24 | No 71 of 1997            | Non-profit Organisations Act                     |
| 25 | No 85 of 1993            | Occupational Health and Safety Act               |
| 26 | No 121 of 1998           | Prevention of Organised Crime Act                |
| 27 | No 99 of 1978            | Protection of Businesses Act                     |
| 28 | No 109 of 1985           | Regional Services Councils Act                   |
| 29 | No 84 of 1996            | SA Schools Act                                   |
| 30 | No 95 of 1986            | Sectional Titles Act                             |
| 31 | No 53 of 1998            | Short Term Insurance Act                         |
| 32 | No 97 of 1998            | Skills Development Act                           |
| 33 | No 9 of 1999             | Skills Development Levies Act                    |
| 34 | No 77 of 1968            | Stamp Duties Act                                 |
| 35 | No 14 of 2005            | The Co-operatives Act                            |
| 36 | No 34 of 2005            | The National Credit Act                          |
| 37 | No 107 of 1978           | The Fund-Raising Act                             |
| 38 | No 194 of 1993           | Trade Marks Act                                  |
| 39 | No 57 of 1998            | Trust Property Control Act                       |
| 40 | No 4 of 2002             | Unemployment Insurance Contributions Act         |

## 5. SCHEDULE OF RECORDS (Section 51 (1) (d))

Please note that recording a category or subject matter in this manual does not imply that a request for access to such records would be honoured. All requests for access will be evaluated on a case by case basis in accordance with the provisions of the Act.

### Human Resources

- Policies and Procedures
- Skills Development Programme
- Health and Safety Records

### Sales Division

### Logistics Division

### Immovable and Moveable Property

- Title deeds of land owned by the Companies
- Agreements for the lease or sale of property/buildings by the Companies
- Leases in respect of vehicles
- Office equipment leases
- Property Records and Leases

### Insurance

- Insurance Policies
- Property Records and Leases

## 6. FORM OF REQUEST (Section 51 (1) (e)) See Form C attached hereto

To facilitate the processing of your request, kindly:

- 6.1 Use the prescribed form, available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za) and annexed hereto.
- 6.2 Address your request to the Head of the Company (CEO).
- 6.3 Provide sufficient details to enable the COMPANY to identify:
  - (a) The record(s) requested;
  - (b) The requester (and if an agent is lodging the request, proof of capacity);
  - (c) The form of access required;
  - (d)
    - (i) The postal address or fax number of the requester in the Republic;
    - (ii) If the requester wishes to be informed of the decision in any manner (in addition to written) the manner and particulars thereof;
  - (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

## 7. PRESCRIBED FEES and Amendments (Section 51 (1) (f)) See Fees Schedule attached hereto.

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed;
- 7.2 If the preparation of the record requested requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid;
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za) and is annexed hereto;

- 7.6 Amendments to or review of this Policy, will take place on an ad hoc basis or at least once a year. Clients are advised to access the Company website periodically to keep abreast of any changes. Where material changes take place, the clients will be notified directly or changes will be stipulated on the Company website; and
- 7.7 Should records not be found or located, the requestor will be notified by way of an affidavit or affirmation. This will include the steps that were taken to attempt to locate the record.



**D. 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:

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2. Reference number, if available:

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3. Any further particulars of record:

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**E. 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.

Reason for exemption from payment of fees:

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**F. 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 below, state your disability and indicate in which form the record is required.

|  |                                   |
|--|-----------------------------------|
| Disability:  | Form in which record is required: |
| Mark the appropriate box with an <b>X</b> .  |                                   |
| NOTES:   |                                   |
| (a) Compliance with your request for access in the 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.                                |                                   |

|   |   |  |  |  |  |
|---|---|--|--|--|--|
| <b>1. If the record is in written or printed form:</b>  |   |  |  |  |  |
|   | copy of record*                           |  | inspection of record                                       |  |  |
| <b>2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):</b> |   |  |  |  |  |
|   | view the images                           |  | copy of the images*  |  | transcription of the images*                             |
| <b>3. If record consists of recorded words or information which can be reproduced in sound:</b>   |   |  |  |  |  |
|   | listen to the soundtrack (audio cassette) |  | transcription of soundtrack* (written or printed document) |  |  |
| <b>4. If record is held on computer or in an electronic or machine-readable form:</b>   |   |  |  |  |  |
|   | printed copy of record*                   |  | printed copy of information derived from the record*       |  | copy in computer readable form* (stiffy or compact disc) |

|  |     |    |
|--|-----|----|
| *If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?<br>Postage is payable. | YES | NO |
|--|-----|----|

**G. 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.<br><b>The requester must sign all the additional folios.</b> |
|---|

1. Indicate which right is to be exercised or protected:

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

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**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 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 .....year .....

.....  
SIGNATURE OF REQUESTER /  
PERSON ON WHOSE BEHALF REQUEST IS MADE

**Physical Address**  
33 Hoofd Street  
Braampark Forum 3  
Braamfontein  
2198

**Postal Address**  
Private Bag X 2700  
Houghton  
2041



**NOTICE IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION 2 OF 2000**  
**RE: FEES ASSOCIATED WITH PAIA REQUESTS ARE DETERMINED BY THE**  
**REGULATIONS ONLY AND NOT THROUGH OTHER APPLICABLE LAWS OR POLICIES**

This Notice serves to state that the South African Human Rights Commission (the Commission) hereby confirms that the costs associated with all requests made under the Promotion of Access to Information Act 2 of 2000 (PAIA) are determined by the Regulations relating to PAIA only, and not by any other laws or regulations. Therefore, any demands made by a public or private body for the payment of additional fees with respect to PAIA requests are invalid.

The Commission is an independent public body currently mandated under PAIA to monitor the implementation of the Act. In accordance with its responsibilities to ensure compliance with PAIA, the Commission issues this notice to bring clarity to all interested parties that it is *only* the Minister of Justice and Constitutional Development who has the power to make decisions regarding fees associated with PAIA requests. The Commission further confirms that Value-Added Tax (VAT) is only payable by institutions who have registered as VAT vendors.

**1. The Promotion of Access to Information Act**

PAIA gives effect to the constitutional right to access of information, as provided for under section 32 of the Constitution. Although responding to requests and reproducing records in an accurate and orderly manner takes time and resources, section 9 of the Act specifically calls for the establishment of mandatory mechanisms and procedures to ensure that access to records of both public and private bodies is "as swiftly, *inexpensively* and effortlessly as reasonably possible." [emphasis added].

Furthermore, section 92 of the Act grants the Minister of Justice and Constitutional Development the power to make regulations pertaining to fees associated with requests made to both public and private bodies.

**2. Regulations to PAIA**

In February 2002, the Minister of Justice and Constitutional Development published a schedule of fees for PAIA requests in the Gazette, which provided for the following:

Fees for Requesting Records

Requesters are required to pay a fee for requesting access to records from both public and private bodies. The fee for requesting records from a public body is R35, while the fee for requesting records from a private body is R50. It is important to note that people who are requesting access to their personal information are exempt from paying a fee. Furthermore, people who earn less than R14,712 per annum (if single) and R27,192 per annum (if married or have a life partner), are also exempt from paying the request fees.

Fees for Accessing Records

Requesters are also required to pay fees for accessing the records of public and private bodies, which include fees associated with the search for, preparation of, and reproduction of documents. The breakdown of fees for requests to both public and private bodies are as follows:

**Public Bodies:**

- Copy per A4 page – 60 cents
- Printing per A4 page – 40 cents
- Copy on a CD – R40
- Transcription of visual images per A4 page – R22
- Copy of a visual image – R60
- Transcription of an audio recording per A4 page – R12
- Copy of an audio recording – R17
- Search and preparation of the record for disclosure – R15 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation
- Actual postage fee

**Private Bodies:**

- Copy per A4 page – R1.10
- Printing per A4 page – 75 cents
- Copy on a CD – R70
- Transcription of visual images per A4 page – R40
- Copy of a visual image – R60
- Transcription of an audio recording per A4 page – R20
- Copy of an audio recording – R30
- Search and preparation of the record for disclosure – R30 per hour or part thereof, excluding the first hour, reasonably required for the search and preparation
- Actual postage fee

**3. Registered VAT Vendors**

The Commission further confirms that Value-Added Tax (VAT) is only payable by institutions who have registered as VAT vendors, as required under section 23 of the Value-Added Tax Act of 1991.

Sincerely,

Advocate L M Mushwana

Chair of the South African Human Rights Commission

Transforming society. Securing rights. Restoring dignity.