



MICHELIN TYRE COMPANY SOUTH AFRICA (PTY) LTD PAIA Manual

**This manual is prescribed by the Promotion of Access to Information Act
2 of 2000**

and

The Protection of Personal information Act of 2013

Compilation Date: 2025
Next Review Date: December 2026

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Introduction to PAIA and MICHELIN

The Promotion of Access to Information Act, 2000 is a freedom of information law in South Africa. It gives the constitutional right of access to any information held by the State and any information held by private bodies that is required for the exercise and protection of any rights.

In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights.

Section 9 of the PAIA act recognises that such a right may have restrictions to the types of access that they may requests. These include but are not limited to

1. Limitations aimed at reasonable protection of privacy, commercial confidentiality, and good governance.
2. In a manner that balances the right to any other rights, including rights contained in the constitution.

MICHELIN TYRE COMPANY SOUTH AFRICA (PTY) LTD

MICHELIN TYRE COMPANY SOUTH AFRICA (PTY) LTD is an investment company based in Adcorp Place 102 Western Service Road Gallo Manor, Ext 6 Woodmead 2191.

Company Contact Details:

This section highlights the points of contact as designated by the company should a request be made in accordance with PAIA. Persons designated/duly authorized persons:

Information Officer details

Prebashni Govender

Email: prebashni.govender@michelin.com

Deputy Information Officer details

Brian Radebe

Email : brian.radebe_ext@michelin.com

Physical & Postal Address:

102 Western Service Road
Gallo Manor, Ext 6
Woodmead
2191



PO Box 803
Isando
1600

Telephone number:
+27 11 579 0300

The Act:

This section describes the rights to the requester under the Promotion of Access to Information Act (PAIA) and the procedures to adhere to:

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. 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.

Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission (SAHRC), 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

Applicable Legislation:

This section highlights applicable legislation that to:

- Basic Conditions of Employment Act No 75 of 1997
- Companies Act No 61 of 1973
- Employment Equity Act No 55 of 1998
- Labour Relations Act No 66 of 1995
- Regional Services Council Act No 109 of 1985
- Skills Development Levies Act No 9 of 1999
- Skills Development Act No 97 of 1998
- Unemployment Contributions Act No 4 of 2002
- Unemployment Insurance Act No 63 of 2001
- Value Added Tax Act No 89 of 1991
- Intellectual Property Laws Amendment Act 2013
- Occupational Health and Safety Act 85 of 1993



MICHELIN Documents

Schedule of Records:

This section highlights the various records that are kept with the company, their respective retention periods and accessibility to the records:

Record Grouping	Record	Length of Time	Accessibility
General Business Records	Registration and Incorporation Documents	Permanently	Not accessible
	Patents, trademark registrations, copyright registrations	Permanently	Not accessible
	Property Records	Permanently	Accessible via PAIA process with justifiable reason.
	Company Documents	Permanently	Accessible via PAIA process with justifiable reason
	Tax Documents	Permanently	Accessible via PAIA process with justifiable reason
Staff Documents	Staff Files – Employment contract, employee personal details, banking details, income tax numbers, etc.	For length of employment and 5 years post termination/retirement/death	Accessible through PAIA process
Financial Business Records	Financial Statements	5 years	Accessible via PAIA process with justifiable reason
	Tax Returns and Filings	5 years	Accessible via PAIA process with justifiable reasons
	Audit Reports	5 years	Accessible via PAIA process with justifiable reason
	Cash books	5 years	Accessible via PAIA process with justifiable reason
	Charts of Accounts	5 years	Accessible via PAIA process with justifiable reason
	Salaries/PAYE/UIF/SDL	5 years	Accessible via PAIA process with justifiable reason
	Bank Reconciliations	5 years	Accessible via PAIA process with justifiable reason
	Client Account Details –	5 years	Accessible via PAIA process with justifiable



	invoices, credit notes etc.		reason
	Bank records and statements	5 years	Accessible via PAIA process with justifiable reason
Insurance Records	Company Insurance Details	Permanently or for length of insurance cover	Accessible via PAIA process with justifiable reason
	Vehicle Insurance Details	Lifetime of vehicle plus 3 years	Accessible via PAIA process with justifiable reason
Vehicle Records	Registration Documents	Lifetime of vehicle plus 3 years	Accessible via PAIA process with justifiable reasons
	Financing Documents	Lifetime of vehicle plus 3 years	Accessible via PAIA process with justifiable reasons
Policies	Policy Documents	Permanently	Accessible via PAIA process with justifiable reasons

Grounds for Refusal to access Records:

MICHELIN may refuse the request for Information and the basis thereof are noted below:

1. Mandatory protection of privacy of a third party that is a natural person.
2. Mandatory protection of Commercial information of a third party (e.g., trade secrets, financials, bound by confidentiality agreements.)
3. Mandatory protection of individuals and protection of property
4. Commercial Information the private body.
5. Request of information that is clearly frivolous or vexatious, or which involve unreasonable diversion of resources shall be refused.

Requestors:

There are two types of requestors:

1. Personal requestors: a personal requester is one who is seeking access to a recording containing personal information about the requestor; MICHELIN shall assist with such request subject to the form of request.

2. Other requestor: This requestor is entitled to request access to information on their parties, however MICHELIN is not obliged to do so unless lawfully bound by it, however, will review each request on a case-by-case basis.



Form of Request: (Section 51 (1) (e))

This section aims to highlight the process in which the requestor may go about requesting information from MICHELIN:

To facilitate the processing of your request, kindly use the prescribed form in Annexure A of this manual. Address your request to the Information Officer as indicated in section 2 of this document.

Provide sufficient details to enable MICHELIN 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.
- (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) and the particulars thereof.
- (d) 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.

Prescribed Fees: (Section 51 (1) (F))

MICHELIN reserves the right according to section 51 (1) (f) of the Act to charge a nominal fee. **Please refer to Annexure B.**

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

- a. A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.
- b. 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).
- c. A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit; Records may be withheld until the fees have been paid.

Privacy

In accordance with the Protection of Personal Information Act of 2013, MICHELIN apply reasonable measures in accordance with the law in protecting Personal Information. In this process, we prescribe to our privacy standards as described in our POPI Policy and will ensure that whilst we follow the rule of law as prescribed by the Promotion of Access to Information Act, we will ensure that all records are secured during this process.



Annexure A: PAIA Request Form



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REPUBLIC OF SOUTH AFRICA

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 10]

A. Particulars of private body

The Head:

B. Particulars of person requesting access to the record

- (a) The particulars of the person who requests access to the record must be given below.
- (b) The address and/or fax number in the Republic to which the information is to be sent must be given.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

[illegible]

Postal address: _____

Telephone number: (.....) Fax number: (.....)

E-mail address:

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

C. 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:

Annexure B: Fees Structures

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Physical Address
33 Hoofd Street
Braamfontein Forum 3
Braamfontein
2198

Postal Address
Private Bag X 2700
Houghton
2041

Tel: (011) 877 3600

Fax: 011 403 0625



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 timely 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, *unexpensively* 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 R15, 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 – R110
- 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 – R50 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. Moshwana

Chair of the South African Human Rights Commission

Transforming society. Securing rights. Restoring dignity.

Chairperson: M. Moshwana; Deputy Chairperson: P. Duvender; Commissioners: L. Mokhele, R. Moleleki, J. Louw, D. Tladi
Chief Executive Officer: R. Ahmed