

Manual of

Whitnev Investments (Pty) Ltd t/a Advance Seed

Registration Number 1994/001269/07

**Prepared in accordance with Section 51 of
The Promotion of Access to Information Act,
No 2 of 2000**

1. INTRODUCTION

1.1 Main business of Advance Seed

Trading of agricultural products .

1.2 Purpose of the Act

To give effect to the constitutional right of 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; and to provide for matters connected therewith.

Recognising that:

- the system of government in South Africa before 27 April 1994, amongst others, resulted in a secretive and unresponsive culture in public and private bodies which often led to an abuse of power and human rights violations;
- section 8 of the Constitution provides for the horizontal application of the rights in the Bill of Rights to juristic persons to the extent required by the nature of the rights and the nature of those juristic persons;
- section 32(1)(a) of the Constitution provides that everyone has the right of access to any information held by the State;
- section 32(1)(b) of the Constitution provides for the horizontal application of the right of access to information held by another person to everyone when that information is required for the exercise or protection of any rights;
- national legislation must be enacted to give effect to this right in section 32 of the Constitution;

And bearing in mind that:

- the State must respect, protect, promote and fulfill, at least, all the rights in the Bill of Rights which is the cornerstone of democracy in South Africa;
- the right of access to any information held by a public or private body may be limited to the extent that the limitations are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom as contemplated in section 36 of the Constitution;
- reasonable legislative measures may, in terms of section 32(2) of the Constitution, be provided to alleviate the administrative and financial burden on the State in giving effect to its obligation to promote and fulfill the right of access to information;

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 to enable them to more fully exercise and protect all of their rights.

PART 1

Section 51(1)(a) of the Act

2. Contact details

Postal address: P.O. Box 414
Krugersdorp
1740

Physical address: 8 Jacob Street
Chamdor
Krugersdorp
1739

Phone number: (011) 762-5261

Fax number: (011) 762-5022

E-mail address: brad@advanceseed.com

Information officer: Bradley Lever

PART 2

Section 51(1)(b) of the Act

3. The section 10 Guide on how to use 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 3
Section 51(1)(d) of the Act

4. Records available in terms of any other legislation

Advance Seed keeps information in terms of the following legislation in so far that it may be required to do so:

- Administration of Estates Act No. 66 of 1965
- Arbitration Act No. 42 of 1965
- Basic Conditions of Employment No. 75 of 1997
- Companies Act No. 61 of 1973
- Compensation for Occupational Injuries and Health Diseases Act No.130 of 1993
- Consumer Affairs (Unfair Business Practices) Act No. 71 of 1988
- Copyright Act No. 98 of 1978
- Credit Agreements Act No. 75 of 1980
- Currency and Exchanges Act No. 9 of 1933
- Debtor Collectors Act No. 114 of 1998
- Employment Equity Act No. 55 of 1998
- Finance Act No. 35 of 2000
- Financial Services Board Act No. 97 of 1990
- Financial Relations Act No. 65 of 1976
- Harmful Business Practices Act No. 23 of 1999
- Income Tax Act No. 95 of 1967
- Insolvency Act No. 24 of 1936
- Insurance Act No 27 of 1943
- Intellectual Property Laws Amendments Act No. 38 of 1997
- Labour Relations Act No. 66 of 1995
- Long Term Insurance Act No. 52 of 1998
- Medical Schemes Act No. 131 of 1998
- Occupational Health & Safety Act No. 85 of 1993
- Pension Funds Act No. 24 of 1956
- Post Office Act No. 44 of 1958
- Protection of Businesses Act No. 99 of 1978
- Regional Services Councils Act No. 109 of 1985
- SA Reserve Bank Act No. 90 of 1989
- Short Term Insurance Act No. 53 of 1998
- Skills Development Levies Act No. 9 of 1999
- Skills Development Act No. 97 of 1998
- Stamp Duties Act No. 77 of 1968
- Stock Exchange Control Act No. 1 of 1985
- Tax on Retirement Funds Act No. 38 of 1996
- Trade Marks Act No. 194 of 1993
- Unemployment Contributions Act No. 4 of 2002
- Unemployment Insurance Act No. 63 of 2001
- Usury Act No 73 of 1968
- Value Added Tax Act No. 89 of 1991

PART 4
Section 51(1)(c),(d),(e) and (f)

5. Records that are voluntary available

- Company brochures and other advertising material on the products of Advance Seed

6. Records that may be requested

This includes but is not limited to the following:

- Financial records
- Operational records
- Databases
- Information technology
- Marketing records
- Internal correspondence
- Product records
- Statutory records
- Internal policies and procedures
- Records held by officials of Euro Africa (Pty) Ltd

7. The request procedures

7.1 Form of request

- The requester must use the prescribed form which is available at the physical address, to make the request for access to a record. This must be made to the head of Advance Seed. This request must be made to the address, fax number or electronic mail address of Advance Seed [s 53(1)].
- The requester must provide sufficient detail on the request form to enable the head of Advance Seed 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 Advance Seed [s 53(2)(f)].

7.2 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 Advance Seed 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 Advance Seed 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 Advance Seed 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, preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure [s 54(6)].

8. Other information as may be prescribed

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

PART 5

9. Grounds for refusal of access to records

Notwithstanding compliance with section 50, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:

- 9.1 Section 63 of the Act prohibits the unreasonable disclosure of the personal information of natural-person third parties to requestors. This includes the personal information of deceased persons. However Section 63(2) does provide exceptions to this.
- 9.2 Section 64 states that a request must be refused if it relates to records containing third party information pertaining to:
- trade secrets;
 - financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or
 - information supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition. The information must, however, be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.
- 9.3 Section 65 prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.
- 9.4 In terms of section 66, a private body must refuse a request for access to a record of the body if disclosure could reasonably be expected to:
- endanger the life or physical safety of an individual;
 - prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property
 - The private body may also refuse a request for access to information which would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.
- 9.5 Section 67 mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.
- 9.6 Section 68 pertains to records containing information about the private body itself and unlike the other provisions pertaining to decline of a request, is not mandatory, but rather discretionary. Advance Seed may refuse access to a record if the record:
- contains trade secrets of Advance Seed
 - contains financial, commercial, scientific or technical information, the disclosure of which would be likely cause harm to the commercial or financial interests of Advance Seed
 - contains information which, if disclosed, could reasonably be expected to put the private body at a disadvantage in contractual or other negotiations, or prejudice Advance Seed in commercial competition; or
 - consists of a computer program owned by Advance Seed.

Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

9.7 Section 69 prohibits the disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to Advance Seed itself.

Notwithstanding any of the above-mentioned provisions, section 70 provides that a record must be disclosed if its disclosure would:

- reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and
- if the public interest in the disclosure clearly outweighs the harm.

PART 6

Section 51(3) of the Act

10. Availability of the manual

The manual is available for inspection at the offices of Advance Seed free of charge.

Copies are available with the SAHRC and on the website of Euro Africa (Pty) Ltd (www.euroafrica.co.za) and Advance Seed (www.advanceseed.co.za)

Annexure 1
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 4]

A. Particulars of private body

The Head:

--

B. Particulars of person requesting access to the record

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

Full names and surname :

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Identity number:

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Postal address:

--

Fax number :

--

E-mail address :

--

Telephone number :

--

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:

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:

2. Reference number, if available

3. Any further particulars of record

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 b e 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 st ate the reason therefore.

Reason for exemption from payment of fees:

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 hereunder, state your disability and dictate in which form the record is required.

Disability	Form in which record is required

Mark the appropriate box with an

NOTES:

- (a) Your indication as to the required form of access depends 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.

1. If the record is in written or printed form -			
	copy of record*		inspection of record

2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)			
	view the images		copy of images
			transcription of images

3. If record consists of recorded words or information which can be reproduced in sound-			
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)

4. If record is held on computer or in an electronic or machine -readable form -			
	Printed copy of record		Printed copy of copy Information derived From the record *
			In computer readable from * (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? **A postal fee is payable.**

YES	NO
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G. Particulars of right to be exercised or protected

<p>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.</p>
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1. Indicate which right is to be exercised or protected:

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

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 thereof 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 20_____

SIGNATURE OF REQUESTER/PERSON ON WHOSE BEHALF REQUEST IS MADE

Annexure 2

Fees in respect of private bodies

Fees for records of private body

5.(1) The fee for reproduction referred to in section 52(3) of the Act, is as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine -readable form	0,75
(c) For a copy in a computer-readable form on -	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) For a copy of an audio record	30,00

(2) The request fee payable by a requester, other than a personal requester, referred to in section 54(1) of the Act is R 50,00.

(3) The access fees payable by a requester referred to in section 54(7) of the Act, unless exempted under section 54(8) of the Act, are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	1,10

(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine - readable form	0,75
(c)	For a copy in a computer-readable form on -	
	(i) stiffy disc	7,50
	(ii) compact disc	70,00
(d)	(i) For a transcription of visual images, for an A4-size page or part thereof	40,00
	(ii) For a copy of visual images	60,00
(e)	(i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
	(ii) For a copy of an audio record	30,00

(f) To search for the record for disclosure, R 30,00 for each hour or part of an hour reasonably required for such search.

(4) The actual postal fee is payable when a copy of a record must be posted to a requester.

(5) For purposes of section 54(2) of the Act the following applies'

(a) Six hours as the hours to be exceeded before a deposit is payable; and

(b) one third of the access fee is payable as a deposit by the requester.