Promotion of Access to Information Manual FUCHS LUBRICANTS SOUTH AFRICA and FUCHS SOUTHERN AFRICA

**MOVING YOUR WORLD** 



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#### 1. Introduction

- 1.1 In terms of Section 51 of the Promotion of Access to Information Act, No 2 of 2000 ("PAIA"), all private entities are required to compile a PAIA Manual ("Manual") that provides information on both the types and categories of records held by a private company.
- 1.2 In addition, the Protection of Personal Information Act 4 of 2013 ("POPIA") amends PAIA in a number of ways. One of the key ways in which POPIA changes PAIA relates to the role of the South African Human Rights Commission ("SAHRC"). Under POPIA the function of the SAHRC in terms of PAIA will be transferred to the Information Regulator once fully established, to monitor both POPIA and PAIA and to handle complaints relating to access to information and the protection of personal information upon commencement of POPIA.
- 1.3 This Manual provides and outlines the types of records held by FUCHS and explains how requestors may submit requests for these records in terms of PAIA. It further allows requesters to access, object to and request a correction of personal information in terms of sections 23 and 24 of POPIA.
- 1.4 The purpose of PAIA is to promote the right of access to information and to foster a culture of transparency and accountability in South Africa. Furthermore, PAIA is aimed at encouraging an open democracy where individuals from all walks of life are empowered to engage with the government and participate in decisions which affect their lives.
- 1.5 The right of access to information is a unique right as it enables the realisation of other human rights: this is one of the most important ways in which PAIA can be used. PAIA and POPIA give effect to everyone's constitutional right of access to information held by the private sector or public bodies, that is required for the exercise and or protection of the requesters' right.

#### 2. Introduction to FUCHS

- 2.1 FUCHS is a global Group with German roots that has developed, produced and sold lubricants and related specialities for 90 years – for virtually all areas of application and sectors. Across South Africa, a team of more than 200 specialists works to guarantee the satisfaction of our customers. Whatever their requirements, FUCHS has the ideal lubricant for their specific applications and processes. In our technology centre, we link interdisciplinary expertise quickly and efficiently – and work on innovative lubricant solutions to meet the demands of today and tomorrow every single day. The FUCHS product offering comprises more than 10,000 products and related services in six key categories:
  - Automotive Lubricants
  - Industrial Lubricants
  - Lubricating Greases
  - Metal Processing Lubricants

- Special Application Lubricants
- Services
- 2.2 This Manual is prepared on behalf of the following companies:

2.3 Ms TP Sithole has been duly appointed by the head of

FUCHS Lubricants South Africa (Pty) Limited	Registration number 2014 / 272890 / 07
FUCHS Southern Africa (Pty) Limited	Registration number 1979 / 003105 / 07

FUCHS as the Information Officer for FUCHS and is the person to whom requests for access to information must be made in terms of PAIA and the Protection of Personal Information Act 4 of 2013 ("POPIA").

#### 3. FUCHS contact details

Physical address:	Johannesburg 6 Isando Road Isando Johannesburg 1600 South Africa
Postal Address:	P.O Box 95 Isando Johannesburg 1600

Information Officer: Name: Ms TP Sithole Telephone: +27 11 565 9600 Email: sm\_za20\_informationofficer@fuchs.com

#### 4. The Section 10 guide on how to use PAIA

- 4.1 The South African Human Rights Commission (SAHRC) published a guide as prescribed by Section 10 of PAIA. This guide was available from the SAHRC prior to 30 June 2021.
- 4.2 From 1 July 2021, the Information Regulator assumed the functions of the SAHRC. Accordingly, the above guide, as updated by the Information Regulator in accordance with POPIA, will be available at the offices of the Information Regulator and on its website. From 1 July 2021, please direct any queries regarding this guide to:

#### Information Regulator:

The Research and Documentation Department

Physical address: JD House

	27 Stiemens Street Braamfontein Johannesburg 2001
Postal address:	P.O. Box 31533 Braamfontein Johannesburg 2017

# Telephone Number:010 023 5200Website:www.justice.gov.za/inforeg/Email (complaints):complaints.IR@justice.gov.zaEmail (general enquiries):inforeg@justice.gov.za

#### 5. Request for Information

You may submit your request together with the proof of payment of fees to the Information Officer as provided for in clause 10 below.



# 6. Voluntary disclosure and automatic availability of certain records

The Company has to date not yet published any notice in terms of section 52(2) of the Act, describing categories of records which are automatically available without a person having to request such information in terms of the provisions of the Act.

#### 7. Records available in terms of other legislation

- 7.1 FUCHS retains records and documents in terms of the legislation listed below. Unless disclosure is prohibited in terms of legislation, regulations and contractual agreements, records that are to be made available in terms of PAIA and/or POPIA shall be made available for inspection by interested parties in terms of the requirements and conditions of PAIA. The request to access must be done in terms of the requirements of the PAIA. 9
- 7.2 Whilst FUCHS maintains records relating to the following laws, it does not imply that a request for access to such records would be granted. All requests for access will be evaluated on a case-by-case basis in accordance with the provisions of PAIA and/or POPIA.
- 7.3 Take note that records are kept in terms of the following legislation, and may include, but are not limited to:
- 7.3.1 Basic Conditions of Employment Act 75 of 1997;
- 7.3.2 Broad-Based Black Economic Empowerment Act 53 of 2003;
- 7.3.3 Cereal Products Agricultural Product Standards Act, 119 of 1990;
- 7.3.4 Companies Act, No. 71 of 2008;
- 7.3.5 Compensation for Occupational Injuries and Diseases Act 130 of 1993;
- 7.3.6 Constitution of the Republic of South Africa;
- 7.3.7 Customs and Excise Act 91 of 1964
- 7.3.8 Electronic Communications and Transactions Act 25 of 2002;
- 7.3.9 Employment Equity Act 55 of 1998;
- 7.3.10 Environment Conservation Act, No. 73 of 1989;
- 7.3.11 Genetically Modified Organisms Act, 15 of 1997;
- 7.3.12 Income Tax Act 58 of 1962;
- 7.3.13 Labour Relations Act 66 of 1995;
- 7.3.14 Medical Schemes Act, No. 131 of 1998;
- 7.3.15 Occupational Health and Safety Act 85 of 1993;
- 7.3.16 Pension Funds Act 24 of 1956;
- 7.3.17 Plant Pests and Diseases Regulation, 1958;
- 7.3.18 Prevention of Organised Crime Act, No 121 of 1998;
- 7.3.19 Promotion of Access to Information Act 2 of 2000;
- 7.3.20 Protection of Personal Information Act 4 of 2013;
- 7.3.21 Skills Development Act 97 of 1998;
- 7.3.22 The Hazardous Substance Act, No. 15 of 1973;
- 7.3.23 Trademarks Act, No. 194 of 1993;
- 7.3.24 Unemployment Insurance Contributions Act 4 of 2002;
- 7.3.25 Unemployment Insurance Act 30 of 1996; and
- 7.3.26 Value Added Tax Act 89 of 1991.

#### 8. Records and Categories of Records held by FUCHS

- 8.1 FUCHS maintains records on the following categories and subject matters however, 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 granted. All requests for access will be evaluated on a case-by-case basis in accordance with the provisions of PAIA and / or POPIA.
- 8.2 A description of the categories of the records held and the types in which this information is classed:

Categories of Information held	Types of Information held	Availability	
Company Secretarial	Company documents including the memorandum of incorporation registers, minute books, statutory returns powers of attorney and share certificates	Not automatically available	
Legal Services	Agreements with customers, suppliers	Not automatically available	
Moveable and immoveable property	Title deeds, lease agreements; hire agreements, hire-purchase agreements, credit sale agreements and ordinary and conditional sale agreements	Not automatically available	
Intellectual property	Trademarks, patents, designs, know-how and licensing agreements	Not automatically available	
Insurance	Policies and insurance claim files	Not automatically available	
Taxation	Income tax files	Not automatically available	
Human Resources	Policies and procedures, employee information, personnel files, employment contracts, forms and applications, training records, workplace and union agreements records and benefit arrangements rules and records	Not automatically available	
Finance and Accounting	Accounting records, financial statements, reports and returns, banking details and bank statements, debtors/ creditors statements and invoices, annual financial statements	Not automatically available	
Operations	Permits, licenses, consents, approvals, authorisations, applications and registrations, policies and procedures, reports and supporting documentation, contractor, client and supplier agreements and information, and security documents	Not automatically available	
Information Technology	System documentation and manuals project, disaster recovery and implementation plans	Not automatically available	
Administration	Intranet and correspondence with internal and external parties	Not automatically available	



#### 9. Processing of Personal Information in terms of POPIA

- 9.1 FUCHS takes privacy and the protection of Personal Information seriously and will only process personal information in accordance with POPIA.
- 9.2 FUCHS processes Personal Information which includes but is not limited to the following purposes: Rendering of services to our customers; employee administration; providing or managing any information on products; transacting with our suppliers; maintaining customer records; recruitment purposes; apprenticeship and bursary purposes; travel purposes; general administration, financial and tax purposes; legal purposes; health and safety purposes; visitor access monitoring purposes, managing the premises and facilities; investigating of and preventing fraud; debt recovery and responding to website enquiries.
- 9.3 Types of Personal Information held by FUCHS:

Categories of individual and juristic entities	tegories of dividual and Types of personal information held istic entities		
Employees	ID number, contact details, physical and postal address, date of birth, age, marital status, race, disability information, employment history, criminal/background checks, fingerprints, CVs, education history, banking details, income tax reference number, remuneration and benefits information (including medical aid, pension/ provident fund information), details related to employee performance, disciplinary procedures, employee disability information, employee pension and provident fund information, employee contracts, employee performance records, payroll records, electronic access records, physical access records, CCTV records, health and safety records, training records, employment history, time and attendance records	Not automatically available	
Suppliers / Service Providers			
Directors and Shareholders	name, surname, ID numbers, and financial information as required for statutory reporting	Not automatically available	
New Job Applicants	Name, surname, address, contact details, email address, telephone number, details of qualifications, skills, experience and employment history, information about your current level of remuneration, including benefit entitlements, whether or not you have a disability for which FUCHS needs to make reasonable adjustments during the recruitment process, and information about your entitlement to work in South Africa	Not automatically available	
Website Visitors	Name, emails address, company name, job title and telephone number	Not automatically available	
Visitors	Physical access records, electronic access records scans and CCTV records	Not automatically available	
Children Name, address and contact details, birth certificate, age, child's medical information		Not automatically available	



#### 10. Transborder Flows of Personal Information

- FUCHS may from time to time transfer personal information to another country for the purposes of rendering services to employees and customers. FUCHS will take the necessary steps to ensure that services providers and third-party operators are bound by laws, binding corporate rules or binding agreements that provide an adequate level of protection and uphold principles for reasonable and lawful processing of personal information in terms of POPIA (Protection of Personal Information Act).
- 10.1 Sharing of Personal Information FUCHS may share personal information with:
- 10.1.1.2 other companies forming part of the FUCHS group of companies located outside of South Africa;
- 10.1.1.3 service providers who perform services on behalf of the FUCHS; and
- 10.1.1.4 third-party suppliers.
- 10.2 FUCHS's security measures to protect personal information:

FUCHS takes the security of your data seriously and therefore reasonable technical and organisational measures have been implemented to protect personal information. FUCHS has internal policies and controls in place to ensure that your data is not lost, accidentally destroyed, misused or disclosed, and is not accessed except by our employees in the proper performance of their duties. FUCHS will take steps to ensure that third-party providers who process personal information on behalf of FUCHS apply adequate safeguards as required in terms of POPIA.

#### 11. How to facilitate a request for access to information

Access to information held by the Company is not automatically available and can be refused by the Company on any of the grounds for refusal contemplated in Chapter 4 of Part 3 of the Act. In order to request access to information held by the Company, the person requesting access to such information (hereinafter referred to as the "requester") must not only identify the right it is seeking to exercise or protect and explain why the record requested is required for the exercise or protection of that right but must also comply with all the procedural requirements set out in the Act. Should the person requesting access to the information be a public body (i.e., state), such a person must identify that it is requesting such information in the public's interest by stipulating adequate reasons.

#### 12. Procedural Requirements

- 12.1 If you are entitled to make a request for access to certain information via PAIA and the steps below must be followed:
- 12.2 In order to facilitate such a request for access to information, the requester needs to complete the prescribed access form attached hereto as Annexure

A. Please note that the prescribed access form must be completed in full of which failure to do so may result in the process being delayed until such additional information is provided.

- 12.3 Proof of identity is required to authenticate the request and the requester. Therefore, in addition to the prescribed access form, requestors will be required to supply a certified copy of their identification document or any other legally acceptable form of identification.
- 12.4 If the request for access to information affects a third party, then such Third party must first be informed within 21 (twenty-one) days of receipt of the request. the third party would then have a further 21 (twenty-one) days to make representations and/or submissions regarding the granting of access to the record.

## 13. Prescribed fees and forms in respect of private bodies

- 13.1 The prescribed forms and fees for requests to private bodies are available on the website of the Department of Justice and Constitutional Development, www. justice.gov.za.
- 13.2 Section 54 of PAIA entitles FUCHS to levy a charge or to request a fee to enable it to recover the cost of Processing a request and providing access to Records. The fees that may be charged are set out in Regulation 9(2)(c) promulgated under PAIA.
- 13.3 Where a decision to grant a request has been taken, the Record will not be disclosed until the necessary fees have been paid in full.



#### 14. Notification and third parties

- 14.1 Requestors will be informed within 30 (thirty) days of the Company's decision to refuse access to the information requested based on any of the grounds for refusal as contemplated in Chapter 4 of Part 3 of the Act. Take note that the 30 (thirty) day period may be extended for a further 30 (thirty) day period should more time be required to gather the requested information. The requester will, however, be notified if the initial 30 (thirty) day notice period is to be extended for a further 30 days.
- 14.2 FUCHS does not have internal appeal procedures in relation to POPIA and PAIA. As such, the decision made by the IO after a request to access information is final.
- 14.3 A requestor that is dissatisfied with FUCHS' Information Officer's decision, may within 30 (thirty) days of notification of the decision, apply to a court with appropriate jurisdiction for relief or contact the Information Regulator's office once fully established.
- 14.4 Where any information is requested from FUCHS that relates to a third party, FUCHS is required to notify the third party of the request. The third party has an opportunity to grant his, or her, or its consent to the disclosure of the record or to make representations as to why the requested record should not be disclosed to the requester. If FUCHS decides to grant access to the record, it will notify the affected third party again. The third party is entitled to apply to the courts in relation to that decision. The court will then determine whether the record should be disclosed by FUCHS or not.
- 14.5 Where a third party is affected by the request for access and the IO has decided to grant access to the record, the third party has 30 (thirty) days in which to appeal the decision in a court of competent jurisdiction. If no appeal has been lodged by the third party within 30 (thirty) days, access to the record must be granted.

#### 15. Information or records not found

- 15.1 If all reasonable steps have been taken to find a record, and such a record cannot be found or if the records do not exist, then FUCHS will notify the requester, by way of an affidavit or affirmation, that it is not possible to give access to the requested record.
- 15.2 The affidavit or affirmation will provide a full account, of all the steps taken to find the record or to determine the existence thereof, including details of all communications by FUCHS with every person who conducted the search.
- 15.3 If the record in question should later be found, the requester shall be given access to the record in the manner stipulated by the requester unless access is refused by FUCHS as permitted by the Act (as dealt with in Section 10).

#### 16. Changes to this Manual

This Manual may be amended and updated from time to time, provided that if FUCHS does so, it will ensure that such changes are carried out subject to and published in accordance with PAIA and POPIA.

#### 17. Availability of this Manual

This Manual is available for inspection, free of charge, at the offices of FUCHS and on its website.



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### **ANNEXURE A PRESCRIBED FORM**

#### 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 THE PRIVATE BODY

The Information Officer:

#### B. PARTICULARS OF PERSON REQUESTING ACCESS TO THE RECORD

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

Full names and surname: Identity number: Postal address:

Fax number: Telephone number: E-mail address: Capacity in which a 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:

# 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) 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. If you qualify for exemption from the payment of any fee, please state the reason.

Reason for exemption from payment of fees:

#### F. FORM OF ACCESS TO RECORD

If you are prevented by a disabi provided for in 1 to 4 hereunder required.						
Disability:		Form in which record is	s require	ed:		
Mark the appropriate box with a NOTES: (a) Your indication as to the record is available. (b) Access in the form requ case you will be informe (c) The fee payable for acc in which access is requ	e required uested ma ed if acce cess to th	d form of access depend ay be refused in certain o ass will be granted in ano	s on the ircumst	e form i tances. m.	In such	a
1. If the record is in written o	r printed	form-				
Copy of record*	Inspe	ection of record				
2. If record consists of visual (this includes photographs, s sketches, etc).			r-genera		ages, ription of	the
view the images		copy of the images		images		
3. If record consists of record sound-	ded word	is or information which	can be	e repro	duced i	n
Listen to the soundtrack (audio cassette)			transcription of soundtrack* (written or printed document)			
4. If record is held on comput	er or in a	an electronic or machin	e – rea	dable f	form-	
Printed copy of record*		Printed copy of derived from the record*		read (stif	copy in computer readable form* (stiffy or compact disc)	
* If you requested a copy or tran copy or transcription to be poste			you wisl	h the	YES	NO
A postal fee is payable.						
Note that if the record is not ava the language in which the record			access	may b	e grante	d in
In which language would you	prefer ti	he record?				

#### G. PARTICULARS OF THE RIGHT TO BE EXERCISED OR PROTECTED

If the space provided is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

- 1. Indicate which right is to be exercised or protected:
- 2. Explain why the record requested is required for the exercise 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 A REQUEST IS MADE

# MOVING YOUR WORLD

Keeping the world moving. This is what drives us. We do not simply develop lubricants, but rather efficient and sustainable lubrication solutions. We support our customers, provide impulses, and move their world – with unconditional reliability. This represents the basis of our work, our claim, and our pledge – both internally and externally





## **FUCHS Lubricants**

Contact:

#### FUCHS LUBRICANTS SOUTH AFRICA (Pty) Ltd

A level 1 BEE Contributor 6 Isando road, Isando 1600, Gauteng Phone : +27 11 565 9600 E-mail : ZA-contact-za@fuchs.com

WITBANK: 013 692 8577 KURUMAN: 053 712 1673 SPRINGBOK: 027 718 1072 DURBAN: 031 204 0700 PORT ELIZABETH / GQEBERHA: 041 451 1586 CAPETOWN: 021 862 8461



**f** (a) (in (**D**)

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