



PROMOTION OF ACCESS TO INFORMATION MANUAL

Compiled in terms of Section 51 of the
Promotion of Access to Information
Act, 2 of 2000 and Sections 11 and 24
of the Protection of Personal
Information Act, 4 of 2013



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1. Definitions and Interpretation

- 1.1 In this Manual, the following words bear the meanings set out below:
 - 1.1.1 "**Acts**" means, collectively, PAIA and POPIA;
 - 1.1.2 "**APSA**" means Air Products South Africa Proprietary Limited, a private company duly registered in terms of the company laws of the Republic of South Africa, with registration number 1969/003571/07, having its principal place of business at 1st Floor, Building 3, 10 Muswell Road South, Bryanston, Johannesburg, Republic of South Africa;
 - 1.1.3 "**Data Subject**" means the Person to whom Personal Information relates;
 - 1.1.4 "**Head**" and "**Information Officer**" means, in the case of APSA, the Chief Executive Officer or the equivalent officer of APSA or any Person duly authorized by that officer to fulfill the functions of an Information Officer for the purposes of this Manual;
 - 1.1.5 "**Manual**" means this manual created in terms of Section 51 of PAIA and Sections 11 and 24 of POPIA;
 - 1.1.6 "**PAIA**" means the Promotion of Access to Information Act No. 2 of 2000;
 - 1.1.7 "**Person**" includes any natural or juristic person, association, partnership, joint venture, trust, voluntary association, body corporate and any similar entity;
 - 1.1.8 "**Personal Information**" has the meaning given to this term in POPIA;
 - 1.1.9 "**POPIA**" means the Protection of Personal Information Act No. 4 of 2013;
 - 1.1.10 "**Processing**" has the meaning given to this term in POPIA and "**Process**" and all variations thereof shall be construed accordingly;
 - 1.1.11 "**Requester**" means any Person requesting access to a record that is under the control of APSA; and
 - 1.1.12 "**SAHRC**" means the South African Human Rights Commission.
- 1.2 An expression which denotes any gender includes the other genders, a natural person includes an artificial or juristic person and *vice versa* and the singular includes the plural and *vice versa*.
- 1.3 Any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation, or other legislation as at the effective date of this Manual and as amended, consolidated, re-enacted or substituted from time to time.
- 1.4 Any reference to the term "*including*" shall be construed as meaning "*including without limitation*" and all variations of such term shall be construed accordingly.
- 1.5 Clause headings are for convenience and shall not be used in the interpretation of this Manual.
- 1.6 If any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Person then, notwithstanding that it is only a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Manual.
- 1.7 Where any term is defined within a particular clause, other than this clause, that term shall bear the meaning ascribed to it in that clause wherever it is used in this Manual unless the contrary appears from the context.

- 1.8 Where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day.
- 1.9 Any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be. Any reference to business days shall be a reference to a day that is not a Saturday, Sunday or public holiday in the Republic of South Africa.
- 1.10 Insofar as there is a conflict in the interpretation of or application of this Manual and the Acts, the Acts shall prevail.
- 1.11 This Manual does not purport to be exhaustive of or comprehensively deal with every procedure provided for in the Acts. A Requester is advised to familiarize itself with the provisions of the Acts before lodging any request with APSA.

2. Introduction

- 2.1 APSA is a private company in South Africa which carries on the business of manufacturing, supplying and distributing a wide variety of industrial and specialty gas products to the Southern African region.
- 2.2 APSA records and understands that the objects of PAIA are to give effect to the constitutional right of access to any information in records that are held by it and that is required for the exercise or protection of any rights by another.
- 2.3 APSA further records that although its intention is to give effect to the aforesaid right, same shall be subject to justifiable limitations, including limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance.
- 2.4 This Manual also outlines the types of records and Personal Information held by APSA and sets out the procedure to request access to these records and Personal Information, the requirements which such request must meet as well as the grounds for refusal or partial refusal of such request.
- 2.5 This Manual has been compiled in accordance with the requirements of PAIA and contains the information specified in Section 51(1) of PAIA.
- 2.6 A copy of this Manual may be obtained free of charge from the Deputy Information Officer (PAIA).
- 2.7 This Manual will be updated on a regular basis in accordance with the requirements of Section 51(2) of PAIA.

3. Availability of guides to the Acts

- 3.1 The SAHRC has, in terms of Section 10 of PAIA, published guides to assist Persons wishing to exercise any rights in terms of PAIA.

3.2 Copies of the Acts, relevant regulations and the guides can be obtained from SAHRC or the Information Regulator and queries should be directed to:

SAHRC	Information Regulator
South African Human Rights Commission	The Information Regulator (South Africa)
Promotion of Access to Information Act Unit Research and Documentation Department	Mr Marks Thibela Chief Executive Officer
Private Bag 2700, Houghton, Johannesburg, 2041	
Braampark, Forum 3, 33 Hoofd Street, Braamfontein, Johannesburg, 2001	Braampark, Forum 3, 33 Hoofd Street, Braamfontein, Johannesburg, 2001
Telephone Number: +27 (0)11 877 3600	Cell Number: (082) 746 4173
Fax Number: +27 (0) 11 484 7146/7	
Email: info@sahrc.org.za	Email: MThibela@justice.gov.za/ info@justice.gov.za
Website: www.sahrc.org.za	Website: www.justice.gov.za/info@reg/contact.html

4. APSA's contact details

Deputy Information Officer (PAIA):

Mrs. Arthi Govender

Physical Address:

4 Spencer Street, Spartan
Kempton Park
1619

Postal Address:

Private Bag 784090
Sandton
2146

Tel: +27 (0)11 977 6480

Email: informationofficer@airproducts.co.za

Website: www.airproducts.co.za

Deputy Information Officer (POPIA):

Mr. Gift Nyambe

Physical Address:

Building 3, Silverstream Business Park
10 Muswell Road South
Bryanston
2191

Postal Address:
Private Bag 784090
Sandton
2146

Tel: +27 (0)11 570 5180
Email: informationofficer@airproducts.co.za
Website: www.airproducts.co.za

Deputy Information Officer (POPIA Data Security):

Mr. Nishaan Singh
Physical Address:
Building 3, Silverstream Business Park
10 Muswell Road South
Bryanston
2191

Postal Address:
Private Bag 784090
Sandton
2146

Tel: +27 (0)11 570 5136
Email: informationofficer@airproducts.co.za
Website: www.airproducts.co.za

5. Records that are automatically available

5.1 No notices relating to APSA have been published by the Minister in terms of Section 52(2) of PAIA.

5.2 Certain records are available on APSA's website www.airproduct.co.za. These records include:

- promotional material for public viewing;
- product information;
- APSA's SACGA certificate;
- safety data sheets;
- supply options; and
- APSA's broad-based black economic empowerment certificate.

5.3 Save for the above, no records are available without needing to be requested in terms of the request procedures set out in PAIA and provided for in this Manual.

6. Records held in accordance with other legislation

6.1 Certain records of APSA are available in terms of legislation, other than PAIA. The specific records which are available in terms of such legislation are set out therein and these records may in certain instances only be accessed by the Persons specified in the relevant legislation.

The legislation is as follows:

Legislation
Basic Conditions of Employment Act No. 75 of 1997
Companies Act No. 71 of 2008
Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
Employment Equity Act No. 55 of 1998
Income Tax Act No. 58 of 1962
Insolvency Act No. 27 of 1943
Labour Relations Act No. 66 of 1995
Medical Schemes Act No. 131 of 1998
National Credit Act No. 34 of 2005
Occupational Health & Safety Act No. 85 of 1993
Pension Funds Act No. 24 of 1956
Skills Development Levies Act No. 9 of 1999
Tax Administration Act No. 28 of 2011
Unemployment Insurance Act No. 63 of 2001
Unemployment Insurance Contributions Act No. 4 of 2002
Value Added Tax No. 89 of 1991

6.2 If there is no specific provision in such legislation as to how a Person may access information referred to in such legislation, the Requester will be required to submit a request in terms of PAIA.

6.3 Although APSA has used its best endeavours to supply a complete list of applicable legislation, it is possible that this list may be incomplete. Wherever it comes to APSA's attention that existing or new legislation allows a Requester access on a basis other than as set out in PAIA, clause 6.1 above will be updated.

7. Categories of records

7.1 APSA has under its control the categories of records listed below, which may be amended from time to time. A request for access to such information will not be automatically granted but will be evaluated in accordance with the provisions of PAIA and any other legal requirements.

Record category	Record category description
Company Secretariat	APSA Corporate Overview Board Minutes Director insurance/liability Director FICA documents Distributor Agreements Short term and long-term insurance JV Agreements Memorandum of Incorporation (MOI) Retirement Funds' Trustee Minutes Shareholder Agreements Scam Stop/WiseCall information and supporting documents
Corporate Risk	Corporate risk register Customer installations risk assessments Hazardous chemical substances Environmental, Health & Safety (EH&S) information
Engineering	Apprentice training records Customer site survey records Customer Technical proposals Gas Practitioner certificates & portfolios of evidence

Facilities	Construction administration & safety Emergency exercises Fire equipment MHI Advertisements in local newspapers Noise surveys
Financial records	Customer credit application forms and supporting documents Customer credit profiles Financial statements Management accounts Asset Registers Bank Statements Banking details and bank accounts Debtors/Creditors statements & invoices General ledgers and subsidiary ledgers General reconciliations Policies and Procedures Commercial Agreements Tax Returns Vat Returns
HR Records	Letter of good standing Statutory employee records Other employee records Alexander Forbes retirement fund Discovery medical aid scheme Internal and External applications for employment & supporting documents School bursary application documents & supporting documents
Procurement	Competitive bidding information & supporting documents Supplier information & supporting documents Vendor database
Sales	Customer site survey reports Customer technical proposals Customer transactional records
Technical	Design reviews MHI quantitative risk assessments MHI reports submitted to Provincial Director & the Department of Employment & Labour (DEL) Operating Plant Hazard Review (OPHR) reports South Africa Compressed Gases Association (SACA) Pressure Equipment Regulations (PER) Exemptions Technical training records

7.2 The information contained in the above table is intended to identify the main categories of records held within APSA. Further assistance in identifying records held by APSA is obtainable from the Deputy Information Officer (PAIA).

8. Processing of Personal Information

8.1 APSA takes the privacy and protection of Personal Information seriously and will only Process Personal Information in accordance with POPIA and any other applicable legislation which deals with privacy rights.

8.2 *The Purpose for APSA's Processing of Personal Information*

APSA Processes Personal Information for a variety of purposes where legally justified to do so. APSA has a separate privacy policy that incorporates the

purposes for Processing and the privacy policy is available on APSA's website (www.airproducts.co.za/privacy-notice) ("**Privacy Policy**").

8.3 *Categories of Data Subjects and Personal Information Processed by APSA*

Categories of Data Subjects and Personal Information Processed by APSA include the following:

Categories of Data Subjects	Personal Information Processed
Shareholders	Shareholder Personal Information
Directors	Director Personal Information
Customers (including potential, existing and previous customers)	Customer Personal Information (such as name, identifying number, addresses, etc.) Customer contracts Customer location information Customer bank details Personal Information of customer representatives Customer third party information (such as from credit bureau and CIPC)
Suppliers/service providers (including potential, existing and previous suppliers/service providers)	Supplier/service provider Personal Information Supplier/service provider COVID 19 Personal Information Supplier/service provider contracts Supplier/service provider bank details Personal Information of supplier/service provider representatives
Employees (including prospective, previous and existing employees)	Employee personal Information Employee education records Employee medical information Employee bank details Employee tax and financial information Employee contracts Employee beneficiary information Employee performance records Payroll records Training records Employment history
Job applicants	Curriculum vitae and application forms Background checks
Visitors	Physical access records Surveillance records (such as CCTV footage)

8.4 *Recipients or categories with whom Personal Information is shared*

APSA may share the Personal Information of Data Subjects, where legally justified to do so or for any of the purposes outlined in the Privacy Policy with the following parties, amongst others:

8.4.1 APSA's suppliers/service providers;

8.4.2 Law enforcement and fraud prevention agencies;

- 8.4.3 Regulatory authorities, governmental departments, local and international tax authorities;
 - 8.4.4 Credit bureaus;
 - 8.4.5 Persons to whom APSA cedes its rights or delegates its obligations under the agreements that it enters into with its customers;
 - 8.4.6 Courts of law and tribunals; and
 - 8.4.7 Third parties in the event of a re-organisation, merger, sale, joint venture, assignment, transfer or other disposition of all or any portion of APSA's business, assets or shares.
- 8.5 *Transfer of Personal Information to other countries*
- APSA will only transfer Personal information across South African borders if the relevant transactions require cross-border Processing or if the services provided to APSA by its service providers entail cross-border Processing. In such circumstances, APSA requires that the Processing of Personal Information in another country is subject to the provisions of the Privacy Policy and POPIA.
- 8.6 *Information Security Measures to Protect Personal Information*
- 8.6.1 APSA uses reasonable technical and organisational safeguards that are designed to protect Personal Information from unauthorised or unlawful Processing, loss, misuse and unauthorised alteration. APSA also uses standard security protocols and mechanisms to exchange the transmission of sensitive information, such as bank account details.
 - 8.6.2 If a Data Subject's Personal Information is acquired, or is reasonably believed to have been acquired, by an unauthorised Person, and applicable law requires notification, APSA will notify the Data Subject accordingly.

9. Considerations before submitting a request

Before a formal request for access to information is submitted, the following needs to be considered:

9.1 *Is the request submitted for the exercise or protection of any of the Requester's legitimate rights?*

The exercise of a Requester's rights is subject to the justifiable limitations, including the reasonable protection of privacy, protection of proprietary rights, and good corporate governance. PAIA may not be used to access a record for criminal or civil proceedings.

9.2 *Is the information required under the control of APSA and in record form?*

PAIA only applies to records that have already been created at the date of the request and that are under the control of APSA. APSA is not obliged to retrieve any records that are no longer under its control, even if APSA created the record.

9.3 *Is there a legitimate right to access the record?*

A request may only be made to exercise the Requester's own right, or where the request is made on behalf of another Person, the Requester must submit proof of

his/her capacity to act on behalf of the Person in whose name the request is made to the reasonable satisfaction of the Deputy Information Officer (PAIA) (i.e. a power of attorney must be submitted with the request where a legal representative makes a request for access to information on behalf of his/her client).

10. Request procedure

If the Requester is satisfied that they are entitled to make a request for access to records under PAIA, they need to follow the procedure outlined below:

10.1 Request form

No application will be considered unless it is made in the prescribed form, which is contained in Annexure 1 to this Manual. The request must be submitted to the Deputy Information Officer (PAIA) by using the details contained in clause 4 above.

Please ensure that sufficient information is provided to enable APSA to establish:

- Personal information of the Requester
- Particulars of the record requested
- Type of record
- Form of access
- Manner of access

10.2 Definition of the Requester's rights

The Requester should describe fully the right they seek to protect in line with the considerations outlined in clause 9 above.

10.3 Payment of the prescribed fee

There are two types of fees:

- Request fee: R250.00
- Access fee: This is calculated by considering administrative, printing and postal costs. These fees are set out in Annexure 2.

10.4 Decision of Information Officer

10.4.1 If the request is granted, the Deputy Information Officer (PAIA) will inform the Requester in the manner indicated by the Requester in the prescribed form. After access is granted, actual access to the record requested will be given as soon as reasonably possible.

10.4.2 If the request for access is refused, the Deputy Information Officer (PAIA) shall advise the Requester in writing of the refusal. The notice of refusal will state adequate reasons for the refusal and the steps that the Requester may take should the Requester disagree with the decision.

11. Timelines for consideration of your request

11.1 Requests will be processed within 30 days, unless the request contains considerations that are of such a nature that an extension of the 30-day time limit is needed.

11.2 Should an extension be needed, the Requester will be notified, together with reasons explaining why the extension is necessary.

11.3 If the Deputy Information Officer (PAIA) fails to respond to your request within 30 days after receiving the request, it is deemed, in terms of Section 58 read together with Section 56(1) of PAIA, that the Deputy Information Officer (PAIA) has refused your request.

12. Grounds for refusal of request for access to records

The main grounds on which APSA could (or must in certain instances) refuse access to records include:

12.1 That access would result in the unreasonable disclosure of Personal Information about a third party;

12.2 The necessity of protecting the confidential information of APSA itself or a third party;

12.3 The necessity of protecting the safety of individuals and protecting property;

12.4 That a record constitutes privileged information for the purpose of legal proceedings;

12.5 The necessity of protecting the proprietary information of APSA or a third party, which may include:

12.5.1 Trade secrets;

12.5.2 Financial, commercial or technical information, the disclosure of which could likely harm the financial or commercial interests of APSA or a third party;

12.5.3 Information that, if disclosed, could put APSA or a third party at a disadvantage in negotiations or commercial competition; and

12.5.4 Computer programs and related information technology software that are owned by or licensed to APSA or a third party and are protected by copyright;

12.6 The necessity of protecting the research information of a third party or APSA itself; and

12.7 Requests for access to records that are clearly malicious, provocative and/or unreasonable.

13. Remedies available to a Requester on refusal of a request for access

APSA does not have any internal appeal processes that may be followed if a request for access to information is refused. The decision made by the Deputy Information Officer (PAIA) is final. Should a Requester be dissatisfied with the outcome of their request, they are entitled to seek legal recourse.

14. Records of APSA that cannot be found or do not exist

14.1 If all reasonable steps have been taken to find a record, and such a record cannot be found or if the record does not exist, then the Deputy Information Officer (PAIA) shall notify the Requester, by the way of an affidavit or affirmation, that it

is not possible to give access to the requested record.

14.2 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 the Deputy Information Officer (PAIA) with every person who conducted the search.

14.3 The notice, as set out in clause 14.1 above, shall be regarded as a decision to refuse a request for access to the record concerned for purposes of PAIA.

14.4 If the record should later be found, the Requester will be given access to the record in the manner stipulated by the Requester in the prescribed form unless access is refused by the Deputy Information Officer (PAIA).

15. Information requested about a third party

15.1 Section 71 of PAIA makes provision for a request for information or records about a third party.

15.2 In considering such a request, APSA will adhere to the provisions of Sections 71 to 74 of PAIA.

15.3 The attention of the Requester is drawn to the provisions of Chapter 5 of Part 3 of PAIA in terms of which APSA is obliged, in certain circumstances, to advise third parties of requests lodged in respect of information applicable to or concerning such third parties. In addition, the provisions of Chapter 2 of Part 4 of PAIA entitle third parties to dispute the decisions of the Deputy Information Officer (PAIA) by referring the matter to the High Court.

Annexure 1: Request form

FORM 2

REQUEST FOR ACCESS TO RECORD

(Regulation 7)

NOTE:

1. Proof of identity must be attached by the Requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The Information Officer

(Address)

E-mail address:

--

Fax number:

--

Mark with a "X"

- Request is made in my own name Request is made on behalf of another person

PERSONAL INFORMATION				
Full Names				
Identity Number				
Capacity in which request is made (when made on behalf of another person)				
Postal Address				
Street Address				
E-mail Address				
Contact Numbers	Tel.(B)		Facsimile	

	Cellular			
Full names of person on whose behalf request are made (if applicable):				
Identity Number				
Postal Address				
Street Address				
E-mail Address				
Contact Numbers	Tel.(B)		Facsimile	
	Cellular			
PARTICULARS OF RECORD REQUESTED				
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. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)				
Description of record or relevant part of the record				
Reference number, if available				
Any further particulars of record				
TYPE OF RECORD				

(Mark the applicable box with an "X")

13

Record is in written or printed form	
Record comprises virtual images (<i>this includes photographs, slides, video recordings, computer-generated images, sketches, etc.</i>)	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	
FORM OF ACCESS (Mark the applicable box with an "X")	
Printed copy of record (<i>including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form</i>)	
Written or printed transcription of virtual images (<i>this includes photographs, slides, video recordings, computer-generated images, sketches, etc</i>)	
Transcription of soundtrack (<i>written or printed documents</i>)	
Copy of record on flash drive (<i>including virtual images and soundtracks</i>)	
Copy of record on compact disc drive (<i>including virtual images and soundtracks</i>)	
Copy of record saved on cloud storage server	

MANNER OF ACCESS

(Mark the applicable box with an "X")

Personal inspection of record at registered address of public/private body (<i>including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form</i>)	
Postal services to postal address	
Postal services to street address	
Courier services to street address	
Facsimile of information in written or printed format (<i>including transcriptions</i>)	
E-mail of information (<i>including soundtracks if possible</i>)	
Cloud share/file transfer	
Preferred Language	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence.

15

Postal address	Facsimile	Electronic communication <i>(Please specify)</i>

Signed at _____ this _____ day of _____ 20 ____.

Signature of Requester/Person on whose behalf request is made

Annexure 2: Fees in respect of Private Bodies

ITEM	DESCRIPTION	AMOUNT
1.	The request fee payable by every Requester	R250.00
2.	Photocopy of A4-size page	R5.00 per page or part thereof.
3.	Printed copy of A4-size page	R5.00 per page or part thereof.
4.	For a copy in a computer-readable form on: (i) Flash drive	R200.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6.	Copy of visual images	Service to be outsourced. Will depend on quotation from Service provider.
7.	Transcription of an audio record, per A4-size page	R100.00
8.	Copy of an audio record on: (i) Flash drive (to be provided by Requester)	R200.00
9.	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	R200.00
10.	Postage, e-mail, or any other electronic transfer	Actual expense, if any.