

PROMOTION OF ACCESS TO INFORMATION ACT

SECTION 51 MANUAL

MASIMO CHEMICALS SOUTH AFRICA PTY LTD



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INTRODUCTION

This Manual has been prepared in accordance with section 51 of the Act and aims to facilitate a Request for access to a Record held by a private body that is required for the exercise or protection of any rights.

DEFINITIONS

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them hereunder, namely –

- “Act” means the Promotion of Access to Information Act, Act 2 of 2000, as amended from time to time;
- “MCSA” means the Company as Masimo Chemicals South Africa PTY LTD more fully described in the overview hereunder;
- “Information Officer” means the person acting on behalf of MCSA and discharging the duties and responsibilities assigned to the head of MCSA by the Act. The Information Officer is duly authorised to act as such and such authorisation has been confirmed by the “head” of MCSA in writing;
- “Manual” means this manual published in compliance with Section 51 of the Act;
- “Record” means any recorded information, regardless of form or medium, which is in the possession or under the control of MCSA, irrespective of whether or not it was created by MCSA;
- “Request” means a request for access to a Record of MCSA;
- “Requestor” means any person, including a public body or an official thereof, making a Request for access to a Record of MCSA and includes any person acting on behalf of that person; and
- “SAHRC” means the South African Human Rights Commission.

Unless a contrary intention clearly appears, words signifying:-

- the singular includes the plural and vice versa;
- any one gender includes the other genders and vice versa; and
- natural persons include juristic persons.

Unless otherwise stated, terms defined in the Act shall have the same meaning in this Manual.

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Website: www.masimochem.com

2. GUIDE TO THE ACT (SECTION 51(1)(b) READ WITH SECTION 10)

The SAHRC has compiled a guide, as required by Section 10 of the Act, containing such information as may reasonably be required by a person who wishes to exercise any right contemplated in this Act.

The guide is available on the SAHRC website, <http://www.sahrc.org.za>.

The SAHRC can be contacted directly at:

The South African Human Rights Commission: PAIA Unit

Postal address: Private Bag X2700
HOUGHTON
2041

Physical address: 2nd Floor
Braampark
Forum 3
33 Hoofd Street
Braamfontein

Telephone: +27 11 877 3600 (Switchboard)
+27 11 877 3750 (Gauteng Office)
+27 11 887 3803





Facsimile: +27 11 403 0668 (Gauteng Office)
+27 11 403 0625

E-mail: section51.paia@sahrc.org.za

Website: <http://www.sahrc.org.za>

3. AUTOMATIC DISCLOSURE - CATEGORIES OF RECORDS AVAILABLE WITHOUT HAVING TO REQUEST ACCESS [SECTION 51(1)(c)]

The following Records are automatically available without a person having to request access in terms of the Act:

- The web page www.masimochem.com is accessible to anyone who has access to the Internet. The MCSA website hosts the following categories of information:
 - Corporate Info
 - Corporate Profile
 - BEE Industry Scorecard
 - 
- Product and  promotional brochures/pamphlets
- News and marketing information
 - 
- Corporate communications
 - 
- Other literature intended for public viewing.

4. RECORDS AVAILABLE IN TERMS OF LEGISLATION [SECTION 51(1)(d)]

Records are kept in accordance with the following legislation :

- Basic Conditions of Employment Act, 1997
- Broad Based Black Economic Empowerment Act, 2003
- Businesses Act, 1991
- Companies Act, 2008
- Consumer Protection Act, 2008
- Compensation for Occupational Injuries and Diseases Act, 1993
- Copyright Act, 1978
- Deeds Registries Act, 1937
- Electronic Communications and Transactions Act, 2002
- Employment Equity Act, 1998
- Financial Markets Act, 2012
- Foodstuffs, Cosmetics and Disinfectants Act, 1972
- Harmful Business Practices Act, 1999
- Income Tax Act, 1962
- Labour Relations Act, 1995
- Occupational Health and Safety Act, 1993
- Prevention of Organised Crime Act, 1998;
- Protected Disclosures Act, 2000
- Securities Services Act, 2004
- Short Term Insurance Act, 1998
- Skills Development Act, 1998
- Skills Development Levies Act, 1999
- Trademarks Act, 1993
- Unemployment Insurance Act, 2001
- Value Added Tax Act, 1991

5. CATEGORIES OF RECORDS HELD AND SUBJECT TO REQUEST

5.1 Statutory and Legal

- statutory registers

- annual reports
- statutory Records & returns, including incorporation documents, memorandum of incorporation and share register
- minutes of meetings
 - board
 - board and statutory committees
 - management committees
- contractual and legal agreements
- intellectual property: trade marks certificates
- licences
- copyrights & designs
- health and safety Records

5.2 Human Resources

- HR policies & procedures
- employment equity plan and report
- skills development plan and report
- employee Records
- benefits
- IR disciplinary and grievance procedures and hearings, including CCMA Records
- Union negotiation Records
- incentive scheme rules

5.3 Administration, Finance & Accounting:

- accounting Records
- auditors reports
- tax returns
- VAT returns
- policies & procedures

5.4 Insurance

- policies, including coverage, limits and insurers
- claim Records

5.5 Information technology

- hardware
- software packages
- licences
- IT policies and procedures
- operating systems

5.6 Sales and Marketing

- customer Records
- credit application forms
- statements of account
- terms & conditions
- marketing material and media releases: brochures, newsletters and advertising materials

5.7 Assets

- land and building register
- fixed assets register
- title deeds
- leases

5.8 Operational information

This information can be defined as information needed in the day-to-day running of the organization. (Examples of such information are: internal telephone lists, address lists, company policies, company procedures, human resource manual, administration manual, industry related statistical data, guest database, historical guest histories, guest reservation data, management information reports, property development information such as title deeds, lease agreements, construction contracts and architectural drawings).

6. OTHER INFORMATION AS MAY BE PRESCRIBED [SECTION 51(1)(f)]

Not applicable.

7. ACCESS: PROCEDURE, AVAILABILITY AND FEES

7.1 How to Request a Record (Section 53)

- Requests for access to Records must be made to the Information Officer in the prescribed form, Annexure 1 at the address, fax number or electronic mail address referred to in 1 above. Failure to make use of the prescribed form could result in your Request being refused or delayed.
- A Request for access to a Record must be accompanied by payment of an initial non-refundable Request fee of R57.00 (inclusive of VAT). This fee is not applicable to personal Requests, i.e. individual seeking access to Records pertaining him/herself.
- The Requestor must provide sufficient detail on the Request form to enable the Information Officer to clearly identify the Record as well as the Requestor's identify, which is to be accompanied by positive proof of identification.
- The Requestor must indicate which form of access is required and if he/she wishes to be informed on the decision on the Request in any other manner, to state the necessary particulars to be so informed.
- Access is not automatic. The Requestor must therefore identify the right he/she is seeking to exercise or protect and provide an explanation as to why the requested Record is required for the exercise or protection of that right.

- If a Request is made on behalf of a person, the Requestor must then submit proof, to the satisfaction of the Information Officer, of his/her authority to make the Request. Failure to do so will result in the Request being rejected.

7.2 Decision on Request (Section 56)

- The Requestor will be notified, within 30 days, in the manner indicated by him/her of the outcome of his/her Request, alternatively whether an extension not exceeding 30 days is required to deal with the Request.
 - If the Request for access is granted a further access fee must be paid for the reproduction as well as the search and preparation of the Records and for any time that has exceeded the prescribed hours to search and prepare the Record for disclosure. Access will be withheld until the Requestor has made payment of the applicable fee(s).
 - In the event that the Request for access is refused, reasons for the refusal will be provided and the Requestor will be advised the he/she may lodge an application with a court against the refusal of the Request, as well as the procedure for lodging the application.
- The Requestor may lodge an internal appeal or an application to court against the tender or payment of the Request fee.

7.3 Availability

This Manual is available on the MCSA website, www.masimochem.com, alternatively at
20 Ncondo Place
Ridge 6
Suite 302
Umhlanga Rocks
Durban
KwaZulu Natal
during office hours.

7.4 Fees

The fees payable in respect of access to Records are attached as Annexure 2.

**REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
FORM C**

(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 Information Officer: Masimo Chemical South Africa PTY LTD in respect of

If you are aware of the company that holds the Record/s you are Requesting, please indicate this fact clearly. Where you are unsure of the company name, please give as much detail to facilitate our search for the Record/s concerned. Please note that your failure to specify a company name will not invalidate your Request, but it may cause unavoidable delays.

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 Name and Surname:

Identity Number:

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:

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 Requestor must sign all the additional folios.**

1. Description of the Record or relevant part of the Record:

2. Reference number, if available:

3. Any further particulars of the Record:

E. Fees

- (a) A Request for access to a Record, other than a Record containing personal information about you, will be processed only after a Request fee has been paid.
- (b) You will be notified of the amount payable 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 of payment of the fee (if any):

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 indicate in which form the Record is required.					
Disability:			Form in which Record is required:		
Mark the appropriate box with an X . NOTES: (a) Compliance with your Request 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.					
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 the images *	
				Transcription of the 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 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? 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.
The Requestor must sign all the additional folios.

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 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 REQUESTOR / PERSON ON WHOSE BEHALF REQUEST IS MADE

ANNEXURE 2

FEES PAYABLE

1. Copy of manual
The fee for a copy of the manual is R1,10 for every photocopy of an A4-size page or part thereof.
2. Reproduction fees
The fees for preparation of Records referred to in regulation 11(1) are as follows:

	Rand
(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) Electronic media, i.e. diskette	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
3. Request fee
The Request fee payable by a Requestor, other than a personal Requestor, referred to in Regulation 11(2) is R50,00.
4. Access fees
The access fees payable by a Requestor referred to in regulation 11(3) are as follows:

	Rand
(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) Electronic media, i.e. diskette	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
(f) To search for and prepare the Record for disclosure for each hour or part of an hour reasonably required for such search and preparation	30,00

For purposes of section 22(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 Requestor.

The actual postage is payable when a copy of a Record must be posted to a Requestor.