

1. Norton Rose Fulbright South Africa Manual

Produced in terms of Section 51 of the Promotion of Access to Information Act, 2000 (the **Act**)

1.1 Contact Details / Information Officer

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1.2 Guide

This is in the process of being compiled by the Human Rights Commission.

1.3 Section 52(2) Notice

Not applicable.

1.4 Records available in terms of other legislation

1.4.1 Companies Act, 2008

Section governing to whom/what record is available

1.4.1.1 26(1) A shareholder or person who holds or has a beneficial interest in any securities issued by a company has a right to inspect and copy, at no expense or on payment, in each case, of not more than R100, the company's:

Memorandum of Incorporation and any amendments to it;

any rules made by the company;

the records of current and past directors;

the reports to annual meetings and the annual financial statements;

the notices and minutes of shareholder meetings including any document made available to the holders of securities in relation to each resolution;

communications sent generally by the company to all holders of any class of the company's securities; and

the securities register of the company.

1.4.1.2 26(2) A person not contemplated in section 26(1) above has a right to inspect or copy the securities register and the register of directors of a company on payment, in each case, of not more than R100.

- 1.4.1.3 26(4) A person may exercise the rights set out in sections 26(1) or 26(2) above:
- for a reasonable period during business hours;
 - by direct request made to a company which must be complied with by the company within 14 business days; or
 - in accordance with the Act.
- 1.4.1.4 26(6) The register of members and register of directors of a company must be open to inspection by any person during business hours for reasonable periods, at no expense to shareholders or on payment of not more than R100 for other persons.
- 1.4.1.5 31(1) A shareholder or person who holds or has a beneficial interest in any securities issued by a company, is entitled:
- without demand to receive a notice of the publication of any annual financial statements of the company required by the Companies Act, 2008, setting out the steps required to obtain a copy of those statements; and
 - on demand to receive, without charge, a copy of any annual financial statements of the company required by the Companies Act, 2008.
- 1.4.1.6 31(2) If a judgment creditor of a company has been informed, by a person whose duty it is to execute the judgment, that there appears to be insufficient disposable property to satisfy that judgment, the judgement creditor is entitled, within five business days after making a demand, to receive without charge a copy of the most recent annual financial statements of the company.
- 1.4.1.7 31(3) Trade unions must, through the Companies and Intellectual Property Commission (the "Commission") and under conditions as determined by the Commission, be given access to company financial statements for purposes of initiating a business rescue process.
- 1.4.1.8 93(1) The auditor of a company has the right of access at all times to the accounting records and all books and documents of the company, and is entitled to require from the directors or prescribed officers of the company any information and explanations necessary for the performance of his duties.

1.4.2 **Basic Conditions of Employment Act, 1997**

Section governing to whom/what record is available

- 1.4.2.1 29 An employer must supply an employee, when the employee commences employment, with specified particulars (inter alia, the name and address of the employer, the name and address of the employee, the employee's occupation, the place of work, the wages that employee will earn, the deductions that will be made, the rate for overtime work, any cash payments or payments in kind to which the employee is

entitled, the leave to which the employee is entitled, the notice period for termination of employment) in writing.

- 1.4.2.2 78 Every employee has the right to inspect any record kept in terms of this Act that relates to his employment.

1.4.3 Employment Equity Act, 1998

Section governing to whom/what record is available

- 1.4.3.1 18 When a designated employer engages in consultation in terms of Chapter 3 of the Employment Equity Act, 1998, the employer must disclose to the consulting parties all relevant information that will allow the parties to consult effectively.

- 1.4.3.2 41 The Minister of Labour must keep a register of designated employers that have submitted the Employment Equity Plans. The register is a public document.

1.4.4 Labour Relations Act, 1995

Section governing to whom/what record is available

- 1.4.4.1 16 An employer must disclose to a Trade Union representative all relevant information that will allow the Trade Union representative to perform effectively the functions referred to in S14 (4). Whenever an employer is consulting or bargaining with a representative Trade Union, the employer must disclose to the representative Trade Union all relevant information that will allow the representative Trade Union to engage effectively in consultation or collective bargaining. The employer must notify the Trade Union representative or the representative Trade Union in writing if information disclosed in terms of sub-sections (2) or (3) is confidential. Sub-section (5) excludes certain information from disclosure by the employer.

- 1.4.4.2 25 Sub-section (7) provides that the Registrar must provide a certified copy of, or extract from, any of the documents referred to in sub-section (6) to any person who has paid the prescribed fees. Sub-section 6 refers to the auditors report.

- 1.4.4.3 83 Regular meetings between the workplace forum and the employer must be held, whereat the employer must present a report on its financial and employment situation, its performance since the last report and its anticipated performance in the short term and in the long term.

- 1.4.4.4 89 An employer must disclose to the workplace forum all relevant information that will allow the workplace forum to engage effectively in consultation and joint decision making. Certain information is excluded from disclosure.

- 1.4.4.5 90 Any documented information that is required to be disclosed by the employer in terms of S89 must be made available on request to the members of the workplace forum for inspection.

- 1.4.4.6 189 The employer must disclose in writing to the other consulting party all relevant information, pertaining to dismissals based on operational requirements.
- 1.4.4.7 204 An employer must give a copy of a collective agreement, arbitration award or determination to an employee who has paid the prescribed fee and, free of charge, on request, to an employee who was a Trade Union representative or member of a Workplace Forum.
- 1.4.4.8 205 An employer must keep the records that the employer is required to keep in compliance with every applicable collective agreement, arbitration award or determination made in terms of the Wage Act. The employer must submit these records in their original form or in a reproduced form and respond to a demand made at any reasonable time, to any agent of a Bargaining Council, Commissioner or any other person whose functions in terms of this Act include the resolution of disputes. An employer must also keep records of the prescribed details of any strike, lock-out or protest action involving its employees and submit these records in the prescribed manner to the Registrar.

1.4.5 Records held by Norton Rose Fulbright South Africa

The following is a list of the documents held by Norton Rose Fulbright South Africa. Access to these documents may be protected by professional privilege or privacy laws or the grounds of refusal detailed in the Act.

Category Subject/Description

- 1.4.5.1 Incorporation Documents — Memorandum and Articles of Association.
- 1.4.5.2 Accounting — Accounts, invoices, reconciliations, credit/debit notes, journals, ledgers, balance sheets, income statements, trial balances, payment schedules, cheque runs, cash flow statements.
- 1.4.5.3 Publications — Updates prepared by various departments within the firm. Information booklets on areas of the law in which the firm specialises.
- 1.4.5.4 Marketing — Client Proposals, Copies of seminar papers, Copies of various PowerPoint presentations for prospective clients, in-house training, seminars, Copies of advertisements placed by firm, Copies of directory listings placed by firm, Copies of articles written by professional staff, Content for firm's website, Invitation lists for seminars and other formal company functions, internal newsletter, Business card details for professional staff, Marketing database containing details of people who are on our mailing list for Publications, General correspondence.
- 1.4.5.5 Stationery/Mail — Order books, Waybills, Invoices, Statements, Record cards of electronic recording, transcribing or printing machines.
- 1.4.5.6 Administration — Minutes of meetings of various committees within the firm; General correspondence; Lease and sale agreements; Copies and correspondence relating to various insurance policies; General correspondence; Workpapers; Operating manuals of mechanical and

electrical systems; Architects drawings; Salary workpapers; Copies of and correspondence with regard to office building leases; Correspondence with Law Society; Documentation relating to PABX, Voicemail and security systems, Candidate Attorneys' Board Exams, Candidate Attorneys' Practical Training.

- 1.4.5.7 Human Resources — Contracts of employment; Documents relating to remuneration structuring; Job specifications; Format/procedures for advertising positions; Policy documents relating to General Conditions of Employment; Performance evaluations; Employment Equity Plan and reports; Workplace Skills Plan and reports; Personnel files; Loan and Bursary Agreements; Documents relating to disciplinary and grievance procedures; All employment applications; Forms relating to new staff appointments; Vacation employment applications and confidentiality undertakings; Candidate Attorneys' contracts with the Law Society.
- 1.4.5.8 Salaries and benefits — Remuneration schedules; Various payroll reports; Workman's Compensation documentation; Norton Rose South Africa Pension Fund documentation; Norton Rose South Africa Retirement Plan documentation; Norton Rose South Africa Group Life Scheme documentation; Medical Aid scheme documentation.
- 1.4.5.9 Library material — Law reports, books, publications, reference books, Government Gazettes, precedents, journals.
- 1.4.5.10 IT — The network and the systems on it, CDs, IT literature, instruction manuals.

2. Prescribed Information

Not presently applicable.