

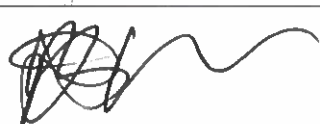



PROMOTION OF ACCESS TO INFORMATION ACT

SECTION 51 MANUAL

FOR

MASSBUILD (PTY) LTD TRADING AS BUILDERS EXPRESS, BUILDERS SUPERSTORE, BUILDERS
TRADE DEPOT AND BUILDERS WAREHOUSE

	REVIEWED BY:	APPROVED BY:
NAME:	KUDA HAKUTANGWI	LLEWELLYN WALTERS
DESIGNATION:	FINANCE DIRECTOR	DIVISIONAL CEO
DATE:	20/01/2020	20/01/2020
SIGNATURE:	 ✓	

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1 INTRODUCTION

This Manual is published in terms of Section 51 of the Promotion of Access to Information Act No. 2 of 2000. The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right of access to information held by the State and to information held by another person that is required for the exercise and/or protection of any right.

MASSBUILD (PTY) LTD (“BUILDERS”) is a private body as defined in the Act, and this Manual contains the information specified in Section 51(1) of the Act, which is applicable to such a private body.

The aim of this Manual is to assist Requestors in requesting access to information from **BUILDERS** as contemplated in the Act.

This Manual may be amended from time to time, and once amendments have been affected, the latest version of this Manual will be distributed and published in accordance with the Act.

A Requestor is welcome to contact **BUILDERS’s** Information Officer, Deputy Information Officer (see contact details below) should he/she require any assistance with the use or content of this Manual.

The reference to any information in addition to that specifically required in terms of Section 51 of the Act does not create any right or entitlement (contractual or otherwise) to receive such information, other than in terms of the Act.

2 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 No. 2 of 2000, as amended from time to time;
- **“BUILDERS”** means Massbuild (Proprietary) Limited trading as Builders Express, Builders Superstore, Builders Trade Depot and Builders Warehouse, a company registered in terms of the laws of the Republic of South Africa under registration number 2004/035206/07;
- **“Deputy Information Officer”** means the person designated to assist the Information Officer with his/her duties and responsibilities in terms of the Act. The Deputy Information Officer is duly authorised to act as such and such authorisation has been confirmed by the head of **BUILDERS** in writing;
- **“Information Officer”** means the person acting on behalf of **BUILDERS** and discharging the duties and responsibilities assigned to the head of **BUILDERS** by the Act. The Information Officer is duly authorised to act as such and such authorisation has been confirmed by the head of **BUILDERS** in writing;
- **“Manual”** means this manual published in compliance with Section 51 of the Act;

- “**Massmart Group**” means the Massmart group of companies, comprising of Massmart Holdings Limited, and its South African subsidiaries and associated companies and entities;
- “**Minister**” means the cabinet member responsible for the administration of justice;
- “**Personnel**” means any person who works for or provides services to or on behalf of **BUILDERS** and receives or is entitled to receive any remuneration. This includes, without limitation, directors (both executive and non-executive), all permanent, temporary and part-time staff as well as contract workers;
- “**Record**” means any recorded information, regardless of form or medium, which is in the possession or under the control of **BUILDERS**, irrespective of whether it was created by **BUILDERS**;
- “**Request**” means a request for access to a Record of **BUILDERS**;
- “**Requestor**” means any person, including a public body or an official thereof, making a Request for access to a Record of **BUILDERS** and includes any person acting on behalf of that person;
- “**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 and vice versa; and
- natural persons include juristic persons.

Terms defined in the Act shall have the same meaning in this Manual.

3 OVERVIEW OF BUILDERS

BUILDERS is a wholly-owned subsidiary of Massmart Holdings Limited.

BUILDERS conducts a commercial, retail, warehousing and distribution business including, inter alia, the warehousing, distribution, wholesaling and retailing of household, garden, building, construction material, pool material, agricultural material, tile, electrical home appliances, electrical appliances, storage and distribution of loose aggregate and home improvement-style do-it-yourself (“DIY”) products through its various branches.

This Manual only applies to **BUILDERS**.

4 CONTACT DETAILS

The Divisional General Counsel of **BUILDERS** is Ms. Michelle Visser and is the Information Officer for the purposes of the Act, and is the person to whom Requests for access to Records should be addressed.

The Risk Manager of **BUILDERS** is Mr. Sibusiso Ntombela and is the Deputy Information Officer,

who is responsible for assisting the Information Officer with his duties and responsibilities.

The Information Officer's and Deputy Information Officer's contact details are listed below:

Name of Private Body	MASSBUILD (PTY) LTD
Postal address	PRIVATE BAG X4, SUNNINGHILL, 2157
Street address	16 PELTIER DRIVE, SUNNINGHILL, 2157
Phone number	086 028 4533
Fax number	086 242 9139
Information Officer	MICHELLE VISSER
Email address of Information Officer	michelle.visser@builders.co.za
Deputy Information Officer	SIBUSISO NTOMBELA
Email address of Deputy Information Officer	sibusiso.ntombela@builders.co.za

5 HOW TO ACCESS THE GUIDE AS DESCRIBED IN SECTION 10 OF THE ACT

The SAHRC has, in terms of Section 10 of the Act, published a Guide to assist persons wishing to exercise any right in terms of the Act. The Guide may be obtained from the SAHRC or on its website (<http://www.sahrc.org.za>).

Please direct any queries to:

The South African Human Rights Commission

PAIA Unit

The Research and Documentation Department

Postal address: Private Bag X2700
Houghton
2041

Telephone: +27 11 484-8300

Fax: +27 11 484-0582

Website: www.sahrc.org.za

E-mail: paia@sahrc.org.za

6 HOW TO REQUEST ACCESS TO RECORDS HELD BY BUILDERS

Requests for access to Records held by **BUILDERS** in terms of Section 50 of the Act must be made on the form contained in the Regulations Regarding the Promotion of Access to Information (**Form C**). A copy of this form is attached to this Manual marked Annexure 1. The

Request must be made to our Information Officer at the address, fax number or electronic mail address provided for above (see section 4). Not using this form could cause your Request to be refused (if you do not provide sufficient information or otherwise) or delayed.

The Requestor must provide sufficient detail on the Request form to enable the Information Officer to identify the Records requested and the identity of the Requestor. The Requestor should also indicate which form of access is required and indicate if he or she wishes to be informed in any other manner and state the necessary particulars to be so informed, including his or her contact details in the Republic of South Africa.

The Requestor must identify the right that he or she is seeking to exercise or protect by accessing Records held by **BUILDERS** and provide an explanation of 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 of the capacity in which the Requestor is making the Request to the satisfaction of the Information Officer.

BUILDERS is required to inform a Requestor in writing of its decision in relation to a Request. If the Requestor wishes to be informed of **BUILDERS**'s decision in another manner as well, this must be set out in the Request and the relevant details included, allowing **BUILDERS** to inform the Requestor in the preferred manner.

7 FEES PAYABLE

The list detailing the prescribed fees payable to BUILDERS in respect of Requests and the fees in respect of access to Records (if the Request is granted) is attached as Annexure 2.

Kindly note that all Requests to **BUILDERS** will be evaluated and considered in accordance with the Act. Publication of this Manual and describing the categories and subject matter of information held by **BUILDERS** does not give rise to any rights (in contract or otherwise) to access such information or Records except in terms of the Act.

8 GROUNDS OF REFUSAL OF ACCESS

BUILDERS may, and must in certain instances, refuse access to Records on any of the grounds set out in Chapter 4 of Part 3 of the Act. These grounds for refusal include: that access would result in the unreasonable disclosure of personal information about a third party, that it is necessary to protect the commercial information of a third party or of **BUILDERS** itself, that it is necessary to protect the confidential information of a third party, that it is necessary to protect the safety of individuals or property, that a Record constitutes privileged information for the purpose of legal proceedings, or that it is necessary to protect the research information of a third party or **BUILDERS** itself. Access to documents may also be refused on the basis of professional privilege.

9 VOLUNTARY DISCLOSURE

BUILDERS is not obliged to and has not published a notice in terms of Section 52(2) of the Act. Nevertheless, **BUILDERS** does make certain information relating to **BUILDERS** on its website at www.builder.co.za. Brochures are mailed to customers, inserted into newspapers and other

publications and may be made available in stores.

Certain information is also made available to employees of **BUILDERS**, which is not generally made available to the public. To avoid confusion, these items of information are not listed here but may be obtained by **BUILDERS** employees from its HR office.

10 RECORDS AVAILABLE IN TERMS OF ANY OTHER LEGISLATION

Information is retained in terms of the following legislation and is **usually available only to the persons or entities specified in such legislation**. The legislation includes, but is not limited to, the following:

- Basic Conditions of Employment Act 75 of 1997
- Broad Based Black Economic Empowerment Act 53 of 2003
- Companies Act 61 of 1973
- Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- Competition Act 89 of 1998
- Consumer Protection Act 68 of 2008
- Customs and Excise Act 91 of 1964
- Electronic Communications and Transactions Act 25 of 2002
- Employment Equity Act 55 of 1998
- Financial Intelligence Centre Act 38 of 2001
- Harmful Business Practices Act 23 of 1999
- Income Tax Act 58 of 1962
- Labour Relations Act 66 of 1995
- Medical Schemes Act 131 of 1998
- National Credit Act 34 of 2005
- National Environmental Management Act 107 of 1998
- Occupational Health and Safety Act 85 of 1993
- Pension Funds Act 24 of 1956
- Protection of Personal Information Act, 4 of 2013
- Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002
- Skills Development Act 97 of 1998
- Skills Development Levies Act 9 of 1999
- Short Term Insurance Act 53 of 1998
- Stamp Duties Act 77 of 1968
- Standards Act 29 of 1993
- Stock Exchanges Control Act 1 of 1985 and the rules and listings requirements of the JSE Securities Exchange authorised in terms thereof
- Unemployment Insurance Act 30 of 1966
- Unemployment Contributions Act 4 of 2002
- Value Added Tax Act 89 of 1991

Records kept in terms of the above legislation may, in certain instances (and insofar as the information contained therein is of a public nature) be available for inspection without a person having to Request access thereto in terms of the Act.

11 RECORDS HELD BY BUILDERS

We maintain 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 honoured. In particular, certain grounds of refusal as set out in the Act may be applicable to a Request for such Records.** All Requests for access will be evaluated on a case by case basis in accordance with the provisions of the Act.

11.1 Company Records

- Documents of Incorporation;
- Memorandum and Articles of Association;
- Necessary certificates in terms of the Companies Act 71 of 2008;
- Share registers and other statutory registers;
- Names of directors;
- Minutes of meeting of committees and sub-committees;
- Operational Records;
- Company policies and directives;
- Intellectual property;
- Marketing Records;
- Legal Records;
- Internal correspondence;
- Statutory Records;
- Internal policies and procedures;
- Records held by officials of **BUILDERS**.

11.2 Financial Records

- Financial Records and reports;
- Accounting Records;
- Audit Records and reports;
- Debtors Records;
- Tax returns;
- Banking Records;
- Financial policies and procedures;
- Risk management Records;
- Management accounts and Records;
- Purchase and order Records;
- General correspondence.

11.3 Personnel Records

- A list of **BUILDERS**'s Personnel;
- Any personal Records provided to **BUILDERS** by its Personnel;
- Any Records a third party has provided to **BUILDERS** about any of its Personnel;
- Conditions of employment and other Personnel-related contractual and quasi-legal Records;
- Internal evaluation Records;
- Skills plans;
- Disciplinary Records;
- Termination Payments;

- Employment Equity Plans of the Massmart Group;
- Employee Tax information;
- Training schedules and manuals;
- Payroll Records;
- Pension and Provident Fund Records;
- Internal policies and procedures;
- General correspondence;
- Other internal Records and correspondence.

11.3 Customer-related Records

- Any Records a customer has provided to the Massmart Group or a third party acting for or on behalf of the Massmart Group;
- Any credit Records or other research conducted by the Massmart Group in respect of its customers or research derived by the Massmart Group from its customers and their activities;
- Any Records a third party has provided to the Massmart Group either directly or indirectly;
- Records generated by or within the Massmart Group pertaining to the customer, including transactional Records.

11.4 Information Technology

- Computer software;
- IT technology capabilities;
- Support and maintenance agreements;
- Records regarding computer systems;
- Programs including software license agreements;
- IT policies and procedures;
- Network Diagrams;
- Configuration setups;
- Systems and user manuals;
- Asset register for IT-related material;
- System Performance Records;
- General correspondence.

11.5 Other Parties

Records are kept in respect of other parties, including without limitation contractors, Commercial Banks, auditors and consultants, suppliers, joint venture companies and service providers, and general market conditions. In addition, such other parties may possess Records which can be said to belong to the **Massmart Group**. The following Records fall under this category:

- Personnel, customer, or Massmart Group Records which are held by another party as opposed to being held by the Massmart Group; and
- Records held by the Massmart Group pertaining to other parties, including financial Records, correspondence, contractual Records, Records provided by the other party, and Records third parties have provided about the contractors or suppliers.

11.6 Other Records

Further Records are held including:-

- Information relating to the Massmart Group's own commercial activities; and
- Research information belonging to the Massmart Group or carried out on behalf of a third party.

12 INFORMATION OR RECORDS NOT FOUND

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 **BUILDERS** will notify the Requestor, by way of an affidavit or affirmation, that it is not possible to give access to the requested Record.

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 **BUILDERS** with every person who conducted the search.

If the Record in question should later be found, the Requestor shall be given access to the Record in the manner stipulated by the Requestor unless access is refused by **BUILDERS** as permitted by the Act.

13 INFORMATION REQUESTED ABOUT A THIRD PARTY

Where any information is requested from **BUILDERS** that relates to a third party, **BUILDERS** is required to notify the third party of the Request. The third party has an opportunity to grant his, 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 Requestor. If **BUILDERS** decides to grant access to the Record, it will notify the affected third party again. The third party is entitled to apply to court in relation to that decision. The court will then determine whether the Record should be disclosed by **BUILDERS** or not.

14 OTHER INFORMATION AS PRESCRIBED

The Minister has not prescribed that any further information must be contained in this Manual.

15 AVAILABILITY OF THIS MANUAL

A copy of this Manual is available on our website www.builders.co.za or by sending a Request for a copy to the Information Officer by email. The Manual may also be inspected at our head office and the SAHRC at the respective addresses set out above or obtained from the Government Printers.

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act No 2 of 2000)
[Regulation 10]

A. Particulars of Private Body

The Information Officer of Massbuild (Pty) Ltd

B. Particulars of Person requesting access to the Record

(a) The particulars of the person who Requests access to the Records 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 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 of 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 yourself, will be processed only after a **Request fee** has been paid.*

(b) *You will be notified of the amount of the Request fee.*

(c) *The **fee payable for access** to a Record depends on the form in which the 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 therefore.*

Reason for exemption of payment of the fee (if any):

F. Form of Access to the 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) *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
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2. If the 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
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3. If the Record consists of recorded words or information which can be reproduced in sound:

	Listen to the soundtrack (audio cassette)		Transcription of the soundtrack (written or printed document)
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4. If the Record is held on computer or in an electronic or machine-readable form:

	Printed copy of the Record*		Printed copy of information derived from the Record*		Copy of computer readable form* (3,5" magnetic or optical compact disc)
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<p>*If you requested a copy or transcription of a Record (above), do you wish the copy or transcription to be posted to you?</p> <p>A postal fee is payable.</p>	YES	NO
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G. Particulars of right to be exercised or protected:

If the provided space is inadequate, please continue of 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 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 REQUESTOR / PERSON
ON WHOSE BEHALF REQUEST IS
MADE

FEES PAYABLE

Request fees:

Where a Requestor submits a Request for access to information held by **BUILDERS** on a person other than the Requestor himself/herself, a Request fee in the amount of R50.00 is payable up-front before **BUILDERS** will further process the Request received. This Request fee may be paid at the time a Request is made, or the person authorised to deal with such Requests on **BUILDERS's** behalf may notify the Requestor to pay the Request fee before processing the Request any further. A Requestor may make an application to Court to be exempted from the requirement to pay the Request fee.

If access to a Record/s is granted by **BUILDERS**, the Requestor may be required to pay an access fee for the search for and preparation of the Records and for re-production of the Record/s. The access fees which apply are set out below.

Access fees:

An access fee is payable in all instances where a Request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act or an exclusion is determined by the Minister in terms of Section 54 (8). **BUILDERS** is entitled to withhold a Record until the required access fees have been paid.

The applicable access fees which will be payable are:

ACTIVITY	FEES
For every photocopy of an A4-size page or part thereof	R1.10
For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	75 cents
For a copy in a computer-readable form on:	
- 3.5" magnetic disc	R7.50
- Optical compact disc	R70.00
A transcription of visual images, for an A4-size page or part thereof	R40.00
For a copy of visual images	R60.00
A transcription of an audio Record, for an A4-size page or part thereof	R20.00
For a copy of an audio Record	R30.00
Search and preparation of the Record for disclosure	R30.00 per hour of part thereof, excluding the first hour, reasonably required for the search and preparation.

Where an institution has voluntarily provided the Minister with a list of categories of Records that

will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such Records, will be a fee for reproduction of the Record in question.

Deposits:

Where **BUILDERS** receives a Request for access to information held on a person other than the Requestor himself/herself and the Information Officer upon receipt of the Request is of the opinion that the preparation of the required Record of disclosure will take more than 6 (six) hours, a deposit is payable by the Requestor. The Requestor may make an application to Court to be exempted from the requirement to pay this deposit. If a deposit is made and access to the Records requested is subsequently refused, the deposit will be repaid to the Requestor.

The amount of the deposit is equal to $1/3$ (one third) of the amount of the applicable access fee.

Note: In terms of Regulation 8, Value Added Tax (VAT) must be added to all fees prescribed in terms of the Regulations.

