

DRAFT POLICY/MANUAL ON ACCESS TO INFORMATION

MANUAL FOR THE DEPARTMENT OF SPORT, ARTS & CULTURE

In terms of Section 14 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

Vision

An active, creative and informed Free State community

Mission

Effective service delivery to the people of the Free State through

- collaboration with all relevant stakeholders
- a committed workforce
- implementation of departmental policies and sustainable programmes
- People-centered development, thereby raising the profile of sport, arts and culture.

Objectives

Instilling an awareness of the role of sport, arts, culture, science and technology in economic development and nation-building.

- Promoting sport and recreation and the provision of facilities.
- Promoting a culture of reading and learning through the utilization of reading and information resources.
- Promoting and awareness of our heritage and museums.
- Promoting and awareness of and appreciation for arts and culture activities.

CONTACT DETAILS [section 14(1)(b) of the Act]

Information Officer

Mr. Lerato Lengau

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THE SECTION 10 GUIDE [section 14(1)(c)]

Any queries about the guide can be addressed to:

PAIA Unit
Department of Research and Documentation Department
South African Human Rights Commission
Private Bag X2700
HOUGHTON
2041
Tel: (011) 484-8300
Fax: (011) 484-1360
E-mail: PAIA@sahrc.org.za
Website: www.sahrc.org.za

RECORDS**ACCESS TO THE RECORDS HELD BY THE DEPARTMENT**

(a) Automatic disclosures [section 14(1)(e)]

The notice in terms of section 15(2) describing the categories of the records that are available without a person having to request access in terms of the Act is not currently available.

However, the following are records that are published by the departments:

- (i) Annual reports
- (ii) Newsletter
- (iii) Budget vote of the MEC

(b) Records that may be requested [section 14(1)(d)]

- Minutes of meetings
- Papers delivered by the MEC and other personnel
- Workshops and seminars
- Reports
- Books
- Complaints received
- Press releases
- Policies
- Employment records
- Procurement policies
- Budgets
- Strategic plans
- MTEF submissions
- Procurement documents

(c) The request procedures

- A requester must be given access to the record of a public body if the requester complies with the following:
- All the procedural requirements in the Act relating to the request for access to that record; and
- Access to that record is not refused on any grounds for refusal mentioned in the Act.
- Nature of the request:
- A requester must use the form printed in the Government Gazette [Govt. Notice R187- 15 February 2002] (Form A).
- The requester must also indicate if the request is for a copy of the record or if the requester wants to peruse the record at the offices of the Provincial Administration.

Alternatively, if the record is not a document it may be viewed in the requested form, if possible [Section 29(2)].

- If a person asks for access in a particular form the requester should be given access in the manner requested. Accessing to the request should not interfere unreasonably with the running of the department, or damage the record, or infringe upon a copyright not owned by the state. If, for practical reasons access cannot be given in the required form but in an alternate manner, the fee must be calculated according to the person's first request [section 29(3) and (4)].
- If, in addition to a written reply to their request for the record, the requester wishes to be told about the decision in any other way, e.g. by telephone, this must be indicated [Section 18(2) (e)].
- If a requester asks for the information on behalf of somebody else, the capacity in which the request is being made should be indicated [section 18(2) (f)].
- If a requester is unable to read or write, or has a disability, they may make the request for the record orally. The information officer must fill in the form on behalf of the requester and give them a copy [section 18(3)].
- Two types of fees have to be paid in terms of the Act, the request fee and the access fee [section 22]:
- A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:
- The information officer must inform the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request.
- The request fee payable to public bodies is R35 (subject to annual increases). The requester may lodge an internal appeal, if appropriate, or an application to the court against the tender or payment of the request fee.
- After the information officer has made a decision on the request the requester must be notified of such a decision in the manner requested by them.
- If the request is granted then a further access fee must be paid for the search, preparation, reproduction and for the time exceeding the prescribed hours of searching and preparing the record for disclosure.

RECORDS

DESCRIPTION OF SUBJECTS ON WHICH DSAC HOLDS RECORDS AND CATEGORIES OF RECORDS HELD ON EACH SUBJECT

For purposes of facilitating a request in terms of the Act, the subjects on which the DSAC holds records and the categories of records held on each subject are as follows:

RECORDS AUTOMATICALLY AVAILABLE

No notice has been published yet regarding the categories of records of the SAC which are available without a person having to request access in terms of the procedures in the Promotion of Access to Information Act. However, the records on the website of SAC, www.sac.fs.gov.za, are available for viewing or downloading without a person having to make such a request in terms of the said Act.

REQUEST PROCEDURE

(a) *Granting or refusal of request:* A requester must be given access to a record of a public body if the requester complies with the following:

- The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and
- Access to that record is not refused on any ground of refusal mentioned in the Act.

(b) How do I request access to a record?

Once you have identified the information you want, as well as the public body from whom you wish to request this information, you must:

- A requester must use/complete the form (Form A) that was printed in the Government Gazette (Government Notice R187 of 15 February 2002) and submit it to the Information Officer concerned with the request fee only if it is not personal.
- The requester must also indicate if the requester wants a copy of the record or if the requester wants to come in and look at the record at the offices of the public body. Alternatively if the record is not a paper document it can then be viewed in the requested form where possible.
- If a person asks for access in a particular form (e.g.: a paper copy, electronic copy, etc) then the requester should get access in that form. This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required form but in another form, then the fee must be calculated according to the way that the requester first asked for it.
- If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, e.g. telephone, this must be indicated.
- If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made must be indicated.
- If a requester is unable to read or write, or has a disability, then the request can be made orally. The information officer must then fill in the form on behalf of such a requester and give them a copy of the completed form.

The time frame under which the request has to be processed;

1. The Information Officer has a period of 30 calendar days within which he/she must respond to the request.
2. Under certain circumstances, the Information Officer may extend the 30-day period once only and for a further period of 30 days.
3. You will be informed by the Information officer in writing of the decision whether to grant your request or not.

(c) Fees payable for a request and notification of decision on access

- A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester must pay the request fee of R35.
- The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed request fee (if any) and deposit (if any) before further processing the request.
- The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of a fee.
- After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.
- If the request is granted then a further access fee must be paid for the reproduction and for search and preparation for any time required in excess of stipulated hours to search and prepare the record for disclosure.
- Access to a record will be withheld until all the applicable fees have been paid.

FEES IN RESPECT OF PUBLIC BODIES

1. The fee for a copy of the manual as contemplated in regulation 5(c) is R0,60 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 7(1) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,40
(c) For a copy in a computer-readable form on -	
(i) stiffy disc	5,00
(ii) compact disc	40,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	22,00
(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	12,00
(ii) For a copy of an audio record	17,00
3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is R35,00.
4. The access fees payable by a requester referred to in regulation 7(3) are as follows:

	R
(1) (a) For every photocopy of an A4-size page or part thereof	0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form	0,40
(c) For a copy in a computer-readable form on -	
(i) stiffy disc	5,00
(ii) compact disc	40,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	22,00
(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	12,00
(ii) For a copy of an audio record	17,00
(f) To search for and prepare the record for disclosure R15,00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	
(2) 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 requester.	
(3) The actual postage is payable when a copy of a record must be posted to a requester.	

**GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWIG**

**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT
DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE
ONTWIKKELING**

**PROMOTION OF ACCESS TO INFORMATION ACT, 2000
EXEMPTIONS AND DETERMINATIONS FOR PURPOSES OF SECTION 22(8)**

I, Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, acting under section 22(8) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) hereby

- (a) exempt the following persons from paying the access fee contemplated in section 22(6) of the Act:
 - (i) A single person whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R 14 712, 00 per annum; and
 - (ii) married persons or a person and his or her life partner whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R27 192,00 per annum, and
- (b) determine that –
 - (i) where the cost of collecting any fee contemplated in section 22 of the Act, exceeds the amount charged, such fee does not apply
 - (ii) the access fee contemplated in section 22(8) of the Act does not apply to the personal record of a requester; and
 - (iii) the request fee contemplated in section 22(1) of the Act and the access fee contemplated in section 22(6) of the Act do not apply to a record requested by a maintenance officer or maintenance investigator for purposes of a maintenance investigation or inquiry in terms of the provisions of the Maintenance Act, 1998 (Act No. 99 of 1998) or the regulations made under section 44 of that Act.

SCHEDULE

1. For purposes of paragraph (a) (i) and (ii) of the notice the following deductions are permissible:
 - (a) Employees' tax in terms of paragraph 2 of Part II of the Fourth Schedule of the Income Tax Act, 1962 (Act No. 58 of 1962);
 - (b) Contributions in terms of section 5 of the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002);
 - (c) compulsory contributions to a Group Insurance Fund in terms of a court order or in terms of a contract between an employer and his or her employee;
 - (d) Contributions to any medical scheme registered under the provisions of the Medical Schemes Act, 1998 (Act No. 131 of 1998), and allowed to be deducted in terms of section 18(1) (a) of the Income Tax Act, 1962 (Act No. 58 of 1962);
 - (e) contributions to pension funds in terms of section 13A of the Pension Funds Act, 1956 (Act No. 24 of 1956);
 - (f) rent or mortgage installments to the maximum of R12000,00 per annum;
 - (g) maintenance paid in terms of a court order; and
 - (h) school fees, except school fees paid to a private school.

B.S. MABANDLA, MP

Minister for Justice and Constitutional Development**SERVICES AVAILABLE [section 14(1)(f)]****i. Nature of services**

The services of the Department are the following:

- Archiving
- Library Services
- Sport Science Institute
- Museums
- Arts & Culture

ii. How to gain access to these services

To gain access to the services of the Department, requests must be made to the Head of Department.

ARRANGEMENT ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY AND THE EXERCISE OF POWER [section 14(1) (g)]

In terms of the Rules and Orders of the Provincial Legislature, all legislation is published for public comment before being tabled. The public is given an opportunity to make written representations or to appear before different portfolio committees.

Different provincial laws make provision for members of the public to nominate members who are to serve on certain committees.

THE REMEDIES AVAILABLE IF THE PROVISIONS OF THIS ACT ARE NOT COMPLIED WITH [section 14(1) (h)]

A requester may lodge an internal appeal against the decision of the information officer to a person designated by the Premier. The requester may apply to a court for appropriate relief after the requester has exhausted the internal procedure. The courts will have to be approached in instances where there is no compliance with the provisions of the Act by the Provincial Administration. This would apply to any situation in which the requester wishes to appeal a decision made by the information officer.

G. UPDATING OF THE MANUAL [section 14(2)]

The Provincial Administration will, if necessary, update and publish this manual, at intervals of not more than a year.

H. AVAILABILITY OF THE MANUAL [section 14(3)]

The manual of the Provincial Administration is made available in the following manner:

A copy in each of the three official languages must be made available to every place of legal deposit as defined in section 6 of the Legal Deposits Act 1997; the South African Human Rights Commission; and every office of that public body. The manual is to be published in Sesotho, English and Afrikaans. The manual is available on the website of the Provincial Administration at <http://fspg ofs.gov.za>.

REMEDIES AVAILABLE IN RESPECT OF ACTS OR FAILURES TO ACT

The following procedures exist for persons to report or remedy alleged irregular, improper or unlawful official acts or omissions by the DSAC or any of its employees:

(a) Procedures for reporting or remedying:

- (i) Remedies in respect of acts or failures to act in terms of the Promotion of Access to Information Act: The internal appeal authority for purposes of this Act is the Minister for the Public Service and Administration (sections 74 – 77). After exhausting the internal appeal remedy an application may be lodged with a court (sections 78 – 82).
- (ii) A public service employee may lodge a grievance or complaint for investigation by the Public Service Commission concerning an official act or omission (section 35 of the Public Service Act, 1994).
- (iii) A person may use labour remedies regarding official acts or omissions of a labour nature, namely disputes of rights (the Public Service Act, 1994, and Labour Relations Act, 1995); (iv) A person may lodge a complaint with a labour inspector concerning any alleged contravention of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997 - section 78(1) (a), or the Employment Equity Act, 1998 (Act No. 55 of 1998 - section 34(e)).
- (v) A person may lodge a complaint with the Public Protector concerning a suspected unlawful or improper official act or omission (the Constitution and the Public Protector Act, 1994 (Act No. 23 of 1994) (vi) A person may lodge a complaint with the South African Human Rights Commission concerning an official act or omission that is suspected to constitute a violation of or threat to any fundamental right (Human Rights Commission Act, 1994 (Act No. 54 of 1994).
- (vii) In order to be protected from reprisals because of a disclosure regarding unlawful or irregular conduct by an employer or a fellow employee, the person in question may follow the disclosure procedures in the Protected Disclosures Act, 2000 (Act No. 26 of 2000).
- (viii) The use of other legal remedies such as the institution of proceedings for the judicial review of an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(b) Other supportive remedies:

- (i) A person may request reasons for an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (section 5).
- (ii) A person may request access to records of a government department or other public body in terms of the Promotion of Access to Information Act, 2000 (section 11).

(c) *Duty to report:*

(i) A public service employee, in the course of his or her official duties, is obliged in terms of the Code of Conduct for public service employees to report to the appropriate authorities, fraud, corruption, nepotism, mal-administration and any other act which constitutes an offence or which is prejudicial to the public interest. An employee, who fails to comply with this, is guilty of misconduct. (Regulation B.3 and C.4.10 of Chapter 2 of the Public Service Regulations, 2001)

(ii) The responsibility of every employer and employee to disclose criminal and any other irregular conduct in the workplace also underpins the Protected Disclosures Act, 2000 (Preamble).