



Centre *for*
Environmental Rights
Advancing Environmental Rights in South Africa

MANUAL IN TERMS OF SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000

CENTRE FOR ENVIRONMENTAL RIGHTS

December 2011

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Centre for Environmental Rights NPC is a non-profit company with registration number 2009/020736/08, NPO Ref 075-863, PBO No. 930032226 and a Law Clinic registered with the Law Society of the Cape of Good Hope

Directors: Carolyn Elizabeth Ah Shene, Joanna Amy Eastwood, Melissa Fourie, Stephen Mark Law, Thomas Tseko Ratsheko, Louis Johannes Smith, Terry Jane Winstanley (Chair)

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1. Introduction

The Centre for Environmental Rights is a non-profit company established in October 2009 by eight non-profit, civil society organisations (CSOs) in South Africa's environmental and environmental justice sector to provide legal and related support to environmental CSOs and communities. Its mission is to advance environmental rights in South Africa, and its vision is to facilitate civil society participation in environmental governance that is stronger, more streamlined, and better legally and scientifically equipped.

For more information about the Centre, see its website at www.cer.org.za.

2. Head of the Centre for Environmental Rights (section 1 of the Promotion of Access to Information Act, 2000 (PAIA))

For the purpose of PAIA, the head of the Centre for Environmental Rights is its Executive Director.

3. Contact details (section 51(1)(a) of PAIA)

Postal and street address: 8A Sussex Road, Observatory, Cape Town 7925

Phone number: 021 447 1647

Fax number: 086 730 9098

Email address of head of the Centre for Environmental Rights: mfourie@cer.org.za and info@cer.org.za.

4. Description of guide referred to in section 10 of PAIA (section 51(1)(b))

A Guide has been compiled in terms of Section 10 of PAIA by the South African Human Rights Commission. It contains information required by a person wishing to exercise any right, contemplated by PAIA. It is available in all of the official languages.

The Guide is available for inspection, *inter alia*, at the office of the offices of the Human Rights Commission at 29 Princess of Wales Terrace, cnr York and St. Andrews Street, Parktown and on its website at www.sahrc.org.za.

5. Categories of record of the Centre for Environmental Rights which are available without a person having to request access in terms of PAIA (section 51(1)(b))

Access to information is crucial to the exercise of environmental rights, and the Centre for Environmental Rights is committed to making a wide range of information within its control easily and freely available as widely as possible. Accordingly, the Centre maintains and frequently updates its website at www.cer.org.za and regularly provides information requested either telephonically or by email to CSOs, other non-profit organisations and members of the public.

Categories of records available freely for download from the Centre's website include:

- environmental legislation;
- court judgements on matters that impact on environmental law;
- Parliamentary replies;
- key government reports on matters that impact on environmental law;
- key speeches given by members of the executive and/or government departments;
- key correspondence on environmental law matters, unless protected by attorney-client confidentiality;
- media releases issued by the Centre; and
- the Centre's Memorandum of Incorporation and all available Annual Reports.

The Centre for Environmental Rights has submitted no request to the Minister in accordance with section 52(2) of PAIA.

6. A description of the records of the Centre which are available in accordance with any other legislation (section 51(1)(d) and (e))

The Centre for Environmental Rights compiles, keeps and, where required, submits certain documents in compliance with national legislation. These documents can be categorised into the following subjects and categories:

- **constitutional documents:** the Centre's Memorandum of Incorporation (see paragraph 5 above) and certificate of incorporation;
- **corporate governance documents:** records relating to the appointment of directors/auditors/secretary/public officer and other officers, board resolutions and minutes of meetings of the board of directors;
- **financial records:** financial records compiled and retained in accordance with applicable legislation, including expense vouchers and invoices, monthly bank statements, monthly management accounts and annual audited financial statements;
- **tax records:** records kept and returns submitted in accordance with income and other tax legislation;
- **employment records:** employment contracts, performance assessment records, leave records, salary records, disciplinary records, unemployment insurance and workmen's compensation records.

The Centre also compiles and keeps other documents without any statutory obligation, including funding and operational contracts.

In addition to the documents referred to above, as a law clinic accredited by the Law Society of the Cape of Good Hope, the Centre provides legal representation to clients. As such, some documents compiled and retained by the Centre are protected by attorney-client privilege.

Some of the documents listed above may be available to appropriate requesters under PAIA in appropriate circumstances.

7. How to request access to information held by the Centre for Environmental Rights (section 51(1)(e) of PAIA)

7.1. Form of Request

The requester must complete Form C (attached) and submit this form together with a request fee, to the Centre's Executive Director.

The form must be submitted to the Centre's Executive Director at her address, fax number, or electronic mail address (see paragraph 3 above).

The form must:

- provide sufficient particulars to enable the Centre's Executive Director to identify the record/s requested and to identify the requester;
- indicate which form of access is required;
- specify a postal address, fax number and/or email address of the requester in the Republic of South Africa;
- identify the right that the requester is seeking to exercise or protect, and provide an explanation of why the requested record is required for the exercise or protection of that right;
- if in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, to state that manner and the necessary particulars to be informed in the other manner;
- if the request is made on behalf of another person, to submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the Centre's Executive Director.

7.2. Fees

- 7.2.1. The fee that the requester must pay to a private body is R50. The requester may lodge an internal appeal or an application to the court against the tender or payment of the request fee.
- 7.2.2. The Centre's Executive Director will then make a decision on the request and notify the requester in the required form. If the request is granted then a further access fee must be paid for the search, reproduction, preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.
- 7.2.3. The fee structure can be accessed at <http://www.sahrc.org.za/home/21/files/FEES.pdf>
- 7.2.4. The fees for reproduction are as follows:
 - 7.2.4.1. For every photocopy of an A4-size page or part thereof: R1,10
 - 7.2.4.2. For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form: R0,75
 - 7.2.4.3. For a copy in a computer-readable form on –
 - 7.2.4.3.1. stiffy disc: R7,50
 - 7.2.4.3.2. compact disc: R70,00
 - 7.2.4.4. a transcription of visual images
 - 7.2.4.4.1. for an A4-size page or part thereof: R40,00
 - 7.2.4.4.2. for a copy of visual images: R60,00
 - 7.2.4.5. For a transcription of an audio record
 - 7.2.4.5.1. for an A4-size page or part thereof: R20,00
 - 7.2.4.5.2. for a copy of an audio record: R30,00
- 7.2.5. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00.
- 7.2.6. For purposes of section 54(2) of the Act, the following applies:
 - 7.2.6.1. six hours as the hours to be exceeded before a deposit is payable; and
 - 7.2.6.2. one third of the access fee is payable as a deposit by the requester.
- 7.2.7. The actual postage is payable when a copy of a record must be posted to a requester.

8. Application to court

A requestor is entitled to make application to court in terms of section of PAIA against a refusal of a request. The rules can be found on the Centre's website at http://cer.org.za/wp-content/uploads/2010/03/Rules-of-Procedure-24130_reg_965.pdf.

Please note that while section 78(2) of PAIA stipulates 30 days in which an application to court must be made, the Constitutional Court has determined that this is unconstitutional and application may be made within 180 days (*Brummer v Minister for Social Development & Others* 2009 JOL 24044 (CC)).



**Executive Director
Centre for Environmental Rights**

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(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 Executive Director
Centre for Environmental Rights
8A Sussex Road, Observatory 7925
mfourie@cer.org.za and info@cer.org.za
Tel 021 447 1647
Fax 086 730 9098

B. Particulars of person requesting access to the record

*(a) The particulars of the person who requests access to the record 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 names and surname:
Identity number:
Postal address:

Fax number:
Telephone 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 requester must sign all the additional folios.***

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

2. Reference number, if available:

3. Any further particulars of record:

E. **Fees**

- | |
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| <p>(a) <i>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.</i></p> <p>(b) <i>You will be notified of the amount required to be paid as the request fee.</i></p> <p>(c) <i>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.</i></p> <p>(d) <i>If you qualify for exemption of the payment of any fee, please state the reason thereof.</i></p> |
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Reason for exemption from payment of fees:

F. **Form of access to record**

<i>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.</i>						
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			
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 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?					YES	NO
A postal fee is payable.						
<i>Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.</i>						
In which language would you prefer the record?						

G. Particulars of right to be exercised or protected

*If the space provided is inadequate, please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.***

1. Indicate which right is to be exercised or protected:

