

(1 June 2007 – to date)

PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000

(Gazette No. 20852, Notice No. 95. Commencement date: 9 March 2001 (save for sections 10, 14, 16 and 51) [Proc. No. 20, Gazette No. 22125])

REGULATIONS REGARDING THE PROMOTION OF ACCESS TO INFORMATION

Published under Government Notice R 187 in Government Gazette 23119. Commencement date: 15 February 2002

As amended by:

Regulations Regarding the Promotion of Access to Information – Government Notice R1244 in Government Gazette 25411. Commencement date: 22 September 2003

Regulations Regarding the Promotion of Access to Information – Government Notice R990 in Government Gazette 29278. Commencement date: 13 October 2006

Regulations Regarding the Promotion of Access to Information – Government Notice R466 in Government Gazette 29914. Commencement date: 1 June 2007

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The Minister for Justice and Constitutional Development has, under section 92 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), made the regulations in the Schedule.

SCHEDULE

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CHAPTER 1 GENERAL PROVISIONS

1. Definition

In these Regulations any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates -

"**the Act**" means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

2. Availability of guide

(1) The Human Rights Commission must, as soon as possible after the guide has been compiled in terms of section 10(1) or updated in terms of section 10(3) of the Act-

(a) make available a copy of the guide, in each official language -

- (i) to the head of the national department responsible for Government communications and information services;
- (ii) to every place of legal deposit as defined in section 6 of the Legal Deposit Act, 1997 (Act No. 54 of 1997), and every tertiary education institution established by or under any law; and
- (iii) upon request, to the head of a private body;

(b) make available, in each official language -

- (i) to the information officers of public bodies such number of copies of the guide as the information officer concerned has indicated in order to comply with regulation 3(1) or (2); and
- (ii) to the Director-General: Communications such number of copies of the guide as the Director-General has indicated in order to comply with regulation 3(3);

- (c) publish the guide in each official language in the *Gazette*;
 - (d) make available a copy of the guide in each official language for public inspection during office hours at the offices of the Human Rights Commission; and
 - (e) make available the guide on the website of the Human Rights Commission.
- (2) The Human Rights Commission may, on request, make available to the persons and the institutions referred to in subregulation (1)(a) additional copies of the guide in the official languages requested.
- (3) (a) Subject to paragraph (b), the Human Rights Commission may not charge any fee for a copy of the guide made available in terms of subregulation (1) or (2) or for inspection of a copy of the guide in terms of subregulation (1)(d).
- (b) In respect of a copy of the guide made available in a manner other than that contemplated in paragraph (a), the Human Rights Commission may charge the fee prescribed in Item 1 of Part I of Annexure A.
- 3.(1) The information officer of the Department of Justice and Constitutional Development must, within 30 days after receipt of the copies of the guide in terms of regulation 2(1)(b)(i), provide -
- (a) every Magistrate's Office with at least one copy of the guide in each official language; and
 - (b) all other offices of the Department of Justice and Constitutional Development with at least one copy of the guide in each of the official languages used for the purposes of government as contemplated in section 6(3) of the Constitution by the province in which such office is located: Provided that a copy of the guide must be so provided in at least two of the official languages.
- (2) The information officer of a public body must, within 30 days after receipt of the copies of the guide in terms of regulation 2(1)(b)(i), provide every office of that public body with at least one copy of the guide in each of the official languages used for the purposes of government as contemplated in section 6(3) of the Constitution by the province in which such office is located: Provided that a copy of the guide must be so provided in at least two of the official languages.
- (3) The Director-General: Communications must, within 30 days after receipt of the copies of the guide in terms of regulation 2(1)(b)(ii), provide every post office, as defined in section 1 of the Postal Services Act, 1998 (Act No. 124 of 1998), with at least one copy of the guide in each of the official languages used for the purposes of government as contemplated in section 6(3) of the Constitution

by the province in which such post office is located: Provided that a copy of the guide must be so provided in at least two of the official languages.

- (4) The head of an office referred to in subregulations (1) and (2) and the person in charge of a post office referred to in subregulation (3) -
- (a) must, during office hours and upon request, make available for public inspection a copy of the guide in the official languages available;
 - (b) may not charge a fee for a public inspection referred to in paragraph (a); and
 - (c) may, in respect of a copy of the guide or part thereof made available in a manner other than that contemplated in paragraph (a), charge the fee prescribed in Item 1 of Part I of Annexure A.

3A. Offences and penalties

- (1) An information officer of a public body or a head of an office referred to in regulation 4(1)(a)(i)(bb), who wilfully or in a grossly negligent manner -
- (a) fails to comply with a provision of regulation 4(1)(a) or 5(a), as the case may be; or
 - (b) contravenes regulation 4(3) or 5(b), as the case may be; or
 - (c) charges any fee other than the fee prescribed in terms of these regulations,
- is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.
- (2) A head of a private body who wilfully or in a grossly negligent manner -
- (a) fails to comply with a provision of regulation 9(1)(a) or (2)(a); or
 - (b) contravenes regulation 9(2)(b); or
 - (c) charges any fee other than the fee prescribed in terms of these regulations,
- is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(Regulation 3A inserted by section 2 of the Regulations in Government Notice R990, Gazette No. 29278 dated 13 October 2006)

CHAPTER 2
ACCESS TO RECORDS OF PUBLIC BODIES

4. Availability of manual: Public body

- (1) Immediately after the manual has been compiled in terms of section 14(1) or updated in terms of section 14(2) of the Act -
- (a) the information officer of a public body must -
- (i) make available a copy of the manual in at least the three official languages in which the manual is compiled as required by section 14 of the Act, to -
- (aa) the Human Rights Commission; and
- (bb) the head of office of every office of that public body; and
- (ii) make available the manual of the web site, if any, of the public body; and
- (b) the information officer of a public body may publish the manual in three official languages in the *Gazette*.

(Regulation 4(1) substituted by section 2 of the Regulations in Government Notice R1244, Gazette No. 25411 dated 22 September 2003)

(Regulation 4(1)(a)(i) substituted by section 3 of the Regulations in Government Notice R990, Gazette No. 29278 dated 13 October 2006)

- (2) The information officer of a public body, may, on request, make available to the institutions referred to in subregulation (1)(a) additional copies of the manual in the official language requested.
- (3) The information officer of a public body may not charge any fee for a copy of the manual made available in terms of subregulation (1) or (2).
5. The Human Rights Commission and the head of an office referred to in regulation 4(1)(a)(i)(bb) -
- (a) must, during office hours and upon request, make available for public inspection copies of the manual in all the official languages available;
- (b) may not charge a fee for a public inspection referred to in paragraph (a); and

- (c) may, in respect of a copy of the manual or part thereof made available in a manner other than that contemplated in paragraph (a), charge the fee prescribed in Item 1 of Part II of Annexure A.

(Regulation 5 substituted by section 4 of the Regulations in Government Notice R990, Gazette No. 29278 dated 13 October 2006)

5A. Voluntary disclosure and automatic availability of certain records: public body

A submission by the information officer of a public body of a description of -

- (a) the categories of records of the body that are automatically available without a person having to request access in terms of the Act; and
- (b) how to obtain access to such records,

as contemplated in section 15 of the Act, must correspond substantially with Form 0 of Annexure B.

(Regulation 5A inserted by section 2 of the Regulations in Government Notice R466, Gazette No. 29914 dated 1 June 2007)

6. Form of request

A request for access to a record as contemplated in section 18(1) of the Act must substantially correspond with Form A of Annexure B.

7. Fees for records of public body

- (1) The fees for reproduction referred to in section 15(3) of the Act are prescribed in Item 2 of Part II of Annexure A.
- (2) The request fee payable by every requester, other than a personal requester, referred to in section 22(1) of the Act is prescribed in Item 3 of Part II of Annexure A.
- (3) The access fees payable by a requester referred to in section 22(7), unless exempted under section 22(8), of the Act are prescribed in Item 4 of Part II of Annexure A.

8. Notice of internal appeal

Notice of an internal appeal as contemplated in section 75(1) of the Act must substantially correspond with Form B of Annexure B.

CHAPTER 3
ACCESS TO RECORDS OF PRIVATE BODIES

9. Availability of manual: Private body

- (1) Immediately after the manual has been compiled in terms of section 51(1) or updated in terms of section 51(2) of the Act -
- (a) the head of a private body-
 - (i) must make available a copy of the manual to-
 - (aa) the Human Rights Commission; and
 - (bb) the controlling body of which that private body is a member, if applicable;
 - (ii) must make available the manual on the web site, if any, of the private body; and
 - (b) the head of a private body may publish the manual in the *Gazette*.
- (2) The head of a private body -
- (a) must, during office hours and upon request, make available for public inspection a copy of the manual;
 - (b) may not charge a fee for a public inspection referred to in paragraph (a); and
 - (c) may, in respect of a copy of the manual or part thereof made available in a manner other than that contemplated in paragraph (a), charge the fee prescribed in Item 1 of Part III of Annexure A and the actual postage of a copy of the manual must be posted.

(Regulation 9 substituted by section 3 of the Regulations in Government Notice R1244, Gazette No. 25411 dated 22 September 2003)

9A. Voluntary disclosure and automatic availability of certain records: private body

A submission by the head of a private body of a description of -

- (a) the categories of records of the body that are automatically available without a person having to request access in terms of the Act; and
- (b) how to obtain access to such records,

as contemplated in section 52 of the Act, must correspond substantially with Form E of Annexure B.

(Regulation 9A inserted by section 3 of the Regulations in Government Notice R466, Gazette No. 29914 dated 1 June 2007)

10. Form of request

A request for access to a record as contemplated in section 53(1) of the Act must substantially correspond with Form C of Annexure B.

11. Fees for records of private body

- (1) The fees for reproduction referred to in section 52(3) of the Act are prescribed in Item 2 of Part III of Annexure A.
- (2) The request fee payable by a requester, other than a personal requester, referred to in section 54(1) of the Act is prescribed in Item 3 of Part III of Annexure A.
- (3) The access fees payable by a requester referred to in section 54(7), unless exempted under section 54(8), of the Act are prescribed in item 4 of Part III of Annexure A.

CHAPTER 3A

TABLING OF REPORT IN TERMS OF SECTION 91A(7) OF THE ACT

11A. Tabling of report

The Minister must table a report in Parliament contemplated in section 91A(7) of the Act, -

- (a) within six months after the commencement of this regulation; and
- (b) within six months after every date on which there is a substantial change in either the content or the implementation of the training courses or both.

(Chapter 3A inserted by section 5 of the Regulations in Government Notice R990, Gazette No. 29278 dated 13 October 2006)

CHAPTER 4

REPEAL AND COMMENCEMENT

12. Repeal

The regulations published under Government Notice No. R. 223 of 9 March 2001 are hereby repealed.

13. Commencement

These regulations come into operation on 15 February 2002.

ANNEXURE A

GENERAL: VALUE-ADDED TAX

Public and private bodies registered under the Value-Added Tax Act, 1991 (Act No. 89 of 1991), as vendors may add value-added tax to all fees prescribed in this Annexure.

PART I FEES IN RESPECT OF GUIDE

1. The fee for a copy of the guide as contemplated in regulations 2(3)(b) and 3(4)(c) is R0,60 for every photocopy of an A4-size page or part thereof.

PART II FEES IN RESPECT OF PUBLIC BODIES

1. The fee for a copy of the manual as contemplated in regulation 6(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	6,00
(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.

**PART III
FEES IN RESPECT OF PRIVATE BODIES**

- 1. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1,10 for every photocopy of an A4-size page or part thereof.
- 2. The fees for reproduction referred to in regulation 11(1) are as follows:

	R
(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) stiffy disc	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
(ii) For a copy of an audio record	30,00

3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00.

4. The access fees payable by a requester referred to in regulation 11(3) are as follows:

	R
(1)(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) stifty disc	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
(ii) For a copy of an audio record	30,00
(f) To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.	
(2) For purposes of section 54(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.	

ANNEXURE B

FORM A

REQUEST FOR ACCESS TO RECORD OF PUBLIC

(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 6]

FORM B

NOTICE OF INTERNAL APPEAL

(Section 75 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 8]

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]

FORM D

AUTOMATICALLY AVAILABLE RECORDS AND ACCESS TO SUCH RECORDS:

(Section 15 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 5A]

(Form D inserted by section 4 of the Regulations in Government Notice R466, Gazette No. 29914 dated 1 June 2007)

FORM E

AUTOMATICALLY AVAILABLE RECORDS AND ASSESS TO SUCH RECORDS:

(Section 52 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 9A]

(Form E inserted by section 4 of the Regulations in Government Notice R466, Gazette No. 29914 dated 1 June 2007)