



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 (AS AMENDED)
CENTRE FOR ENVIRONMENTAL RIGHTS**

As of October 2023

1st floor, Birkdale 2, River Park, 1 River Lane,
Liesbeek Parkway, Mowbray 7700
Cape Town, South Africa
Tel 021 447 1647, Email info@cer.org.za,
www.cer.org.za

INTRODUCTION

1. The Centre for Environmental Rights (CER) is a non-profit organisation and law clinic based in Cape Town that helps communities to defend their Constitutional right to a healthy environment. It achieves this by advocating and litigating for transparency, accountability, and compliance with environmental laws.
2. For more information about the CER and its programmes, see its website at: www.cer.org.za.

PURPOSE

3. The right of access to information is entrenched under section 32 of the Constitution of the Republic of South Africa. Section 32 provides that everyone has the right of access to any information held by the state; or held by any other person that is to be used for the protection or exercise of any right. The Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA) gives effect to Section 32 by prescribing that private bodies provide details of records held by such body so that requests for information may be accommodated.
4. This Manual is intended to ensure that the CER complies with PAIA and is intended to foster a culture of transparency and accountability within the CER that mirrors South Africa's constitutional democratic values and principles.
5. Further, access to information is crucial to the exercise of environmental rights, and the CER is committed to making a wide range of information within its control easily and freely available as widely as possible.
6. The Manual sets out the categories of information which are held by CER and are available without a person having to submit a formal PAIA request.
7. Where a request is made in terms of PAIA, the body to whom the request is made is obliged to release the information, subject to applicable legislative and/or regulatory requirements, except where PAIA expressly provides that the information may or must not be released.
8. PAIA must be read together with the Protection of Personal Information Act 4 of 2013 (POPIA), which also seeks to promote the right to access to information held by public or private bodies.

HEAD OF THE CER

9. For the purpose of both PAIA and POPIA, the head of the CER is its Executive Director.
10. CER's contact details are:
 - 10.1. Postal and street address: 2nd Floor, Springtime Studios, 1 Scott Road, Observatory, Cape Town, 7925
Phone number: 021 447 1647
Fax number: 086 730 9098
E-mail address for POPIA and PAIA queries: compliance@cer.org.za | ati@cer.org.za
 - 10.2. Key contact details for access to information:

Chief Information Officer

Name: Wandisa Phama

E-mail: wphama@cer.org.za

Deputy Information Officers

Name: Palesa Madi

E-mail: pmadi@cer.org.za

Name: Majury Chada

E-mail: mchada@cer.org.za

Name: Sonia Chu

E-mail: schu@cer.org.za

DEFINITIONS

11. For the purposes of this Manual, the following definitions are applicable:

- 11.1. *“Constitution”* means the Constitution of the Republic of South Africa, 1996.
- 11.2. *“Data subject”* means a person to whom personal information pertains.
- 11.3. *“Information Officer”* means in respect of a private body, the head of that private body.
- 11.4. *“Information Regulator”* means the statutory body established in terms of section 39 of POPIA. The Information Regulator is the custodian of POPIA and PAIA and is empowered to monitor and enforce compliance with both Acts.
- 11.5. *“operator”* means a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of that party.
- 11.6. *“PAIA”* means the Promotion of Access to Information Act 2 of 2002.
- 11.7. *“personal information”* means information relating to an identifiable, living natural person, and where it is applicable, an existing juristic person.
- 11.8. *“personal requester”* means a requester seeking access to a record containing personal information about the requester.
- 11.9. *“POPIA”* means the Protection of Personal Information Act 4 of 2013.
- 11.10. *“record”* means any recorded information, regardless of the form or medium, in the possession or under the control of the responsible party, whether or not it was created by the responsible party, and regardless of when it came into existence.

- 11.11. *“request for access”*, in relation to a private body, means a request for access to a record of a private body in terms of section 50 of PAIA.
- 11.12. *“requester”*, in relation to a private body, means -
- 11.12.1. Any person, including but not limited to, a public body or an official thereof, making a request for access to a record of that private body; or
 - 11.12.2. A person acting on behalf of the person contemplated in clause 5.11.1.
- 11.13. *“responsible party”* means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information.

PROCESSING OF PERSONAL INFORMATION

12. The CER takes the privacy and protection of personal information seriously. Accordingly, it will only process personal information in terms of the POPIA. The relevant personal information privacy principles relating to the processing thereof (including, but not limited to, the collection, handling, transfer, sharing, correction, storage, archiving, and deletion) will be applied to any personal information processed by the CER.
13. The CER may process the personal information of the following data subjects:
- 13.1. Employees;
 - 13.2. Clients;
 - 13.3. Board Members;
 - 13.4. Funders;
 - 13.5. Third-party service providers;
 - 13.6. Research participants;
 - 13.7. Volunteers; and
 - 13.8. Mailing list recipients, event attendees, and website visitors.
14. For further information, please see the CER’s privacy policy [here](#).

GUIDE ON HOW TO USE PAIA

15. In terms of Section 10(1) of PAIA, the Information Regulator has revised a Guideline compiled by the South African Human Rights Commission. It contains information required by a person wishing to exercise any right, contemplated by PAIA and POPIA. It is available in all of the official languages. You may access it [here](#).
16. The Guide may also be obtained upon request from the Information Regulator.

CATEGORIES OF RECORD OF THE CENTRE FOR ENVIRONMENTAL RIGHTS WHICH ARE AVAILABLE WITHOUT A PERSON HAVING TO REQUEST ACCESS IN TERMS OF PAIA

17. The CER maintains and frequently updates its website and regularly provides information requested either telephonically or by email to civil society organisations, other non-profit organisations and members of the public.
18. Categories of records available freely for download from the CER's website include:
 - 18.1. environmental legislation;
 - 18.2. court judgments on matters that impact on environmental law;
 - 18.3. parliamentary replies;
 - 18.4. key government reports on matters that impact on environmental law;
 - 18.5. key speeches given by members of the executive and/or government departments;
 - 18.6. key correspondence on environmental law matters, unless protected by attorney-client confidentiality;
 - 18.7. media releases issued by the CER; and
 - 18.8. the CER's Memorandum of Incorporation and all available Annual Reports.

RECORDS HELD BY THE CER THAT ARE AVAILABLE IN ACCORDANCE WITH ANY OTHER LEGISLATION

19. The CER compiles, keeps and, where required, submits certain documents in compliance with national legislation. These documents can be categorised into the following subjects and categories:
 - 19.1. **constitutional documents:** the CER's Memorandum of Incorporation and certificate of incorporation;
 - 19.2. **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;
 - 19.3. **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
 - 19.4. **tax records:** records kept and returns submitted in accordance with income and other tax legislation;
 - 19.5. **employment records:** employment contracts, performance assessment records, leave records, salary records, disciplinary records, unemployment insurance, and workmen's compensation records.
20. The CER also compiles and keeps other documents without any statutory obligation, including funding and operational contracts.
21. In addition to the documents referred to above, as a law clinic accredited by the Law Society of the Cape of Good Hope, the CER provides legal representation to clients. As such, some documents compiled and retained by the CER are protected by attorney-client privilege.
22. Some of the documents listed above may be available to appropriate requesters under PAIA in appropriate circumstances.

REQUESTING ACCESS TO INFORMATION HELD BY THE CER

23. Form of Request

- 23.1. The requester must complete Form 2 (attached) and submit this form together with a request fee, to the CER's Executive Director.
- 23.2. The form must be submitted to the CER's Executive Director at her address, fax number, or electronic mail address.
- 23.3. The form must:
 - 22.3.1 provide sufficient particulars to enable the CER's Executive Director to identify the record/s requested and to identify the requester;
 - 22.3.2 indicates which form of access is required;
 - 22.3.3 specify a postal address, fax number and/or email address of the requester in the Republic of South Africa;
 - 22.3.4 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;
 - 22.3.5 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;
 - 22.3.6 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 CER's Executive Director.

24. Fees

- 24.1. PAIA provides for two categories of fees. The first category is request fees and the second is access fees.
- 24.2. Request fees related to administration is and is payable upon the request for access to a record unless the requestor is requesting their own personal information.
- 24.3. The fee that the requester must pay to a private body is R140.00 excluding VAT and it is subject to change. The requester may lodge an internal appeal or an application to the court against the tender or payment of the request fee.
- 24.4. The CER's Executive Director will then decide 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.
- 24.5. The fees to access for access are outlined in Form 3 (attached).
- 24.6. The reproduction fees, as stipulated in the Regulations, are set out below:

Item	Description	Amount
1.	Photocopy / printed black and white copy of A4-size page	R2.00 per page or part thereof
2.	Printed copy A4 size	R2.00 per page or part thereof
3.	For a copy in a computer-readable form on: <ul style="list-style-type: none"> • Flash drive (to be provided by requestor) • Compact disc (CD) if provided by requestor • CD is provided to requestor 	R40.00 R40.00 R60.00
4.	For a transaction of visual images per A4 size page	Service to be outsourced and price will depend on quotation from service provider.
5.	Copy of visual images	Service to be outsourced and price will depend on quotation from service provider.
6.	Transcription of an audio record, per A4-size page	R24.00
7.	Copy of an audio record on: <ul style="list-style-type: none"> • Flash drive (to be provided by the requestor) • CD if provided by the requestor • CD if provided to the requestor 	R40.00 R40.00 R60.00
8.	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such and preparation.	R145.00
	Fee cap (i.e. the search fee cannot exceed)	R435.00
9.	Deposit if search exceeds six hours	One third of amount per request
10.	Postage, e-mail or any other electronic transfer	Actual expense, if any

DECISION ON REQUEST

25. As reasonably as possible, but within 30 days after receiving a request, the CER will advise a requestor in writing whether their request has been approved or refused.

GROUND OF REFUSAL

26. The CER is entitled to refuse a request for information on the following grounds:
- 26.1. Mandatory protection of the privacy of a third party in terms of POPIA and section 63 of PAIA;
 - 26.2. Mandatory protection of personal information in terms of POPIA;
 - 26.3. Mandatory protection of the commercial information of a third party, as provided for in section 64 of PAIA;
 - 26.4. Mandatory protection of confidential information of third parties if it is protected in terms of any agreement, as provided for in section 65 of PAIA;

- 26.5. Mandatory protection of the safety of individuals and the protection of property, as provided for in section 66 of PAIA;
 - 26.6. Mandatory protection of records which would be regarded as privileged in legal proceedings, as provided for in section 67 of PAIA;
 - 26.7. If the record comprises the commercial activities of a private body, in terms of section 68 of PAIA;
 - 26.8. Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources.
27. If a requested record cannot be found or if the record does not exist, the Information Officer shall, by way of affidavit or affirmation, notify the requester that it is not possible to give access to the requested record. Such a notice will be regarded as a decision to refuse a request for access to the record concerned for the purposes of PAIA. If the record should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form, unless the Information Officer refuses access to such record in terms of PAIA.

REMEDIES AVAILABLE WHEN THE CER REFUSES A REQUEST

28. Kindly note that the CER does not have internal appeals procedures.
29. A requestor is entitled to lodge a complaint to the Information Regulator, using the Form 5, accessible [here](#) and which may be e-mailed to PAIAComplaints@infoRegulator.org.za.
30. Further, make application to court in terms of section 78 of PAIA against a refusal of a request within 180 days from the refusal. The rules for application to court can be found [here](#).

AVAILABILITY OF MANUAL

31. This Manual is available for inspection at the CER's offices during normal business hours. No fee will be charged for inspection.

REVISIONS

32. CER will update this Manual on an annual basis or when there are substantive updates in terms of PAIA, POPIA and updates from the Information Regulator.



**Executive Director
Centre for Environmental Rights
October 2023**

FORM 2

REQUEST FOR ACCESS TO RECORD

[Regulation 7]

NOTE:

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The Information Officer

(Address)

E-mail address: _____

Fax number: _____

Mark with an "X"

Request is made in my own name Request is made on behalf of another person.

PERSONAL INFORMATION	
Full Names	
Identity Number	
Capacity in which request is made <i>(when made on behalf of another person)</i>	
Postal Address	
Street Address	
E-mail Address	
Contact Numbers	Tel. (B): _____ Facsimile: _____
	Cellular: _____
Full names of person on whose behalf request is made <i>(if applicable):</i>	
Identity Number	
Postal Address	

Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		

PARTICULARS OF RECORD REQUESTED

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. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)

Description of record or relevant part of the record:	

Reference number, if available	
--------------------------------	--

Any further particulars of record	

TYPE OF RECORD
(Mark the applicable box with an "X")

Record is in written or printed form	
Record comprises virtual images (<i>this includes photographs, slides, video recordings, computer-generated images, sketches, etc</i>)	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	
FORM OF ACCESS (Mark the applicable box with an "X")	
Printed copy of record (<i>including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form</i>)	
Written or printed transcription of virtual images (<i>this includes photographs, slides, video recordings, computer-generated images, sketches, etc</i>)	
Transcription of soundtrack (<i>written or printed document</i>)	
Copy of record on flash drive (<i>including virtual images and soundtracks</i>)	
Copy of record on compact disc drive (<i>including virtual images and soundtracks</i>)	
Copy of record saved on cloud storage server	

MANNER OF ACCESS (Mark the applicable box with an "X")	
Personal inspection of record at registered address of public/private body (<i>including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form</i>)	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format (<i>including transcriptions</i>)	
E-mail of information (<i>including soundtracks if possible</i>)	

Cloud share/file transfer	
Preferred language <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>	

PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED	
<i>If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.</i>	
Indicate which right is to be exercised or protected	
Explain why the record requested is required for the exercise or protection of the aforementioned right:	

FEES	
<p>a) <i>A request fee must be paid before the request will be considered.</i></p> <p>b) <i>You will be notified of the amount of the access fee to be paid.</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 for exemption</i></p>	
Reason	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication <i>(Please specify)</i>

--	--	--

Signed at _____ this _____ day of _____ 20 _____

Signature of Requester / person on whose behalf request is made

FOR OFFICIAL USE

<i>Reference number:</i>	
<i>Request received by: (State Rank, Name And Surname of Information Officer)</i>	
<i>Date received:</i>	
<i>Access fees:</i>	
<i>Deposit (if any):</i>	

Signature of Information Officer

FORM 3

OUTCOME OF REQUEST AND OF FEES PAYABLE

[Regulation 8]

Note:

1. If your request is granted the—
 - (a) amount of the deposit, (if any), is payable before your request is processed; and
 - (b) requested record/portion of the record will only be released once proof of full payment is received.
2. Please use the reference number hereunder in all future correspondence.

Reference number: _____

TO: _____

Your request dated _____, refers.

1. You requested:

Personal inspection of information at registered address of public/private body (<i>including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form</i>) is free of charge. You are required to make an appointment for the inspection of the information and to bring this Form with you. If you then require any form of reproduction of the information, you will be liable for the fees prescribed in Annexure B.	
---	--

OR

2. You requested:

Printed copies of the information (<i>including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form</i>)	
Written or printed transcription of virtual images (<i>this includes photographs, slides, video recordings, computer-generated images, sketches, etc</i>)	
Transcription of soundtrack (<i>written or printed document</i>)	
Copy of information on flash drive (<i>including virtual images and soundtracks</i>)	
Copy of information on compact disc drive (<i>including virtual images and soundtracks</i>)	
Copy of record saved on cloud storage server	

3. To be submitted:

Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format (<i>including transcriptions</i>)	
E-mail of information (<i>including soundtracks if possible</i>)	
Cloud share/file transfer	
Preferred language: (<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>)	

Kindly note that your request has been:

Approved

Denied,
for the

following reasons:

--

4. Fees payable with regards to your request:

Item	Cost per A4-size page or part thereof/item	Number of pages/items	Total
Photocopy			
Printed copy			
For a copy in a computer-readable form on:			
(i) Flash drive	R40.00		
• To be provided by requestor			
(ii) Compact disc	R40.00		
• If provided by requestor			
• If provided to the requestor	R60.00		
For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on the quotation of the service provider		
Copy of visual images			
Transcription of an audio record, per A4-size	R24.00		
Copy of an audio record			
(i) Flash drive	R40.00		
• To be provided by requestor			
(ii) Compact disc	R40.00		
• If provided by requestor			
• If provided to the requestor	R60.00		
Postage, e-mail or any other electronic transfer:	Actual costs		
TOTAL:			

5. Deposit payable (if search exceeds six hours):

Yes

No

Hours of search	Amount of deposit (calculated on one third of total amount per request)

The amount must be paid into the following Bank account:

Name of Bank:

Name of account holder:

Type of account:

Account number:

Branch Code:

Reference Nr: _____

Submit proof of payment to: _____

Signed at _____ this _____ day of _____ 20 _____

Information officer