

SECTION 51 MANUAL/ ACCESS TO INFORMATION MANUAL

FOR

CONSULTING ENGINEERS SOUTH AFRICA

**MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION OF ACCESS TO
INFORMATION ACT NO.2 OF 2000**

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1. INTRODUCTION

1.1. The provision of the Act

The Promotion of Access to Information Act no 2. of 2000 (the "Act") was enacted on 3 February 2000 and was put into effect in part on 9 March 2001, with Section 51 and other sections pertaining to the manuals to be prepared by public and private bodies coming into effect on 15 February 2002.

The object of the Act is to give effect to the constitutional right of access to information held by another and required for the exercise or protection of any right, privacy, commercial confidentiality, and professional privilege.

When a request is made by a requester in accordance with the procedure provided for in the Act, for access to information held by a body (being either a public body or a private body), that body is obliged to deal with such a request in the manner prescribed in the Act. More specifically, that body is obliged to release the information except in those cases where the Act expressly provides that the information may not or must not be released.

1.2. Company Consulting Engineers South Africa

Consulting Engineers South Africa (CESA) was established in 1952 as the South African Association of Consulting Engineers (SAACE). It is a voluntary association (not for gain) of independent consulting engineers in private practice whose membership has grown over the years from 30 individual members in 1952 to 480 firms in 2011, employing more than 22 000 people in total. The services it provides are:

- Membership for Consulting Engineering firms
- Sale of Contract documents
- Training

For private companies, the provision dealing with the form of the request, the fees payable, and the procedure to be followed in regard to a request, is contained in sections 53-60 of the Act. The grounds on which access to information may or must be refused are set out in sections 62-70 of the Act.

1.3. The purpose of the manual

The purpose of the manual is to make available to potential requesters information regarding the records held, to define the manner and form in which a request for information must be submitted and to set out the criteria and grounds, derived from the Act, to be applied with in granting or refusing a request.

The objective of the manual is to inform and assist potential requesters in regard to the procedure to be followed and the criteria to be applied when a request is made for access to information held by Consulting Engineers South Africa in terms of the Act.

The manual may be amended from time to time as and when necessary. As and when amendments are effected, the latest version of the manual will be made public.

A requester who requires further information with regards to the use of this manual and/or the procedure to be followed may direct enquiries to:

| | |
|-----------|--|
| Name | Sue Davis |
| Telephone | 011 463 2022 |
| Fax | 011 463 7383 |
| Email | Sued@cesa.co.za |

1.4. Definitions

The following words or expressions will bear the following meanings in this manual:

- "the Act" Shall mean the Promotion of Access to Information Act, no.2 of 2000, together with all relevant regulations published there under
- "the / this manual" Shall mean this manual together with all annexures thereto as available at the offices of Consulting Engineers South Africa
- "SAHRC" Shall mean the South African Human Rights Commission
- "Information Officer" Shall mean the Financial Manager of Consulting Engineers South Africa, who has been appointed as the Information Officer of Consulting Engineers South Africa and to whom requests for information in terms of the Act shall be addressed

2. CONTACT DETAILS (SECTION 51(1)(A) OF THE ACT)

| | |
|-------------------------------|---|
| Name of company | Consulting Engineers South Africa |
| Registration number | There is no registration number as Consulting Engineers South Africa is an 'Association Not For Gain' |
| Appointed Information Officer | Sue Davis |
| Physical address | Ground floor, Fulham House, Hampton Park North, 20 Georgian Crescent, Bryanston, Johannesburg |
| Postal address | PO Box 68482, Bryanston, 2021, Johannesburg |
| Registered Office | Ground floor, Fulham House, Hampton Park North, 20 Georgian Crescent, Bryanston, Johannesburg |
| Company Secretary | Sue Davis |
| Auditors | NMN Chartered Accountants (SA) |
| Telephone | 011 463 2022 |
| Fax | 011 463 7383 |
| E-mail | sued@cesa.co.za |
| Website | www.cesa.co.za |
| VAT registration number | 4170109013 |

3. DETAILS OF SUBSIDIARIES AND DIVISIONS

None

4. CONTACT DETAILS OF SUBSIDIARIES AND DIVISIONS

None

5. GUIDE IN TERMS OF SECTION 10 OF THE ACT (SECTION 51(1)(B) OF THE ACT)

In terms of Section 10 of the Act, a guide has to be compiled by the South African Human Rights Commission (SAHRC) containing such information as may be required by a person who wishes to exercise any right contemplated in the Act. The guide will be made available in all official languages by the SAHRC and will be obtainable from the SAHRC.

Contact details of the SAHRC are as follows:

| | |
|------------------|---|
| Postal address | PAIA Unit, The Research and Documentation Department, Private Bag 2700, Houghton 2041 |
| Physical address | Offices of SAHRC Forum, 3 Braampark Office Park, Braamfontein |
| Telephone | 011 877 3600 |
| E-mail | PAIA@sahrc.org.za |
| Website | www.sahrc.org.za |

6. NOTICE(S) IN TERMS OF SECTION 52(2) OF THE ACT (Section 51(1)(c))

In terms of section 52(1) of the Act, a private body may, on a voluntary basis, provide the Minister (of Justice) with information regarding categories of records that are automatically available without a person having to request access in terms of the Act. In terms of section 52(2), the Minister must, by notice in the Gazette, publish such information. To date, no such notice has been published.

7. INFORMATION AVAILABLE IN TERMS OF OTHER LEGISLATION (Section 51(1)(d) of the Act)

Consulting Engineers South Africa keeps information in accordance with the following legislation:

- Basic Conditions of Employment Act no. 75 of 1997
- Broad-based Black Economic Empowerment Act no. 53 of 2003
- Companies Act no. 71 of 2008
- Compensation for Occupational Injuries and Diseases Amendment Act no. 61 of 1997
- Constitution Sixteenth Amendment Act of 2009
- Customs and Excise Act no. 91 of 1964
- Electronic Communications Amendment Act no. 37 of 2007
- Employment Equity Act no. 55 of 1998
- Income Tax Act no. 28 of 1997
- Occupational Health and Safety Act no. 85 of 1993
- Promotion of Access to Information Amendment Act no. 54 of 2002
- Protected Disclosures Act no. 26 of 2000
- Skills Development Amendment Act no. 37 of 2008
- Unemployment Insurance Contributions Act no. 4 of 2002
- Value-Added Tax Act no. 89 of 1991

8. INFORMATION FORMING PART OF RECORDS IN TERMS OF THE ACT (Section 52(1)(e))

Consulting Engineers South Africa holds the following records:

8.1. Administration and management

- Administration and operational records
- Correspondence
- Minutes of meetings
- Risk, security and insurance records
- Statutory records

8.2. Finance

- Accounting records
- Inventory records
- Creditors and debtors records
- Financial statements
- Operational expenditure records
- Salaries and wages records
- Taxes and levies records

8.3. Human resources

- Employment contracts
- Personnel records
- Staff policies and procedures
- Training and development records

8.4. Information technology

- Infrastructure and systems

9. CRITERIA FOR GRANTING ACCESS TO INFORMATION

9.1. Any information, records, copies, documents or other data forming part of or pertaining to the records referred to in paragraphs 7 and 8 above will only be made available to a requester in response to a request prepared and lodged in the prescribed format and in accordance with the prescribed procedure (see paragraph 10 below).

9.2. Information, records, copies, documents or other data forming part of or pertaining to the aforesaid records will be made available to a requester in accordance with the provisions of the Act, and subject to the rules and principles entrenched in the Act in regard to the protection of the commercial and confidential information of Consulting Engineers South Africa and third parties, and taking into account the other grounds for refusal of access as set out in the Act.

9.3. Consulting Engineers South Africa may, in terms of sections 62-70 of the Act, legitimately refuse to grant access to the aforesaid records in respect of information falling within certain categories as contemplated in the Act, inter alia in the following circumstances:

- To protect personal information that the firm holds about a third person (who is a natural person), including a deceased person, from unreasonable disclosure;
- To protect commercial information that the firm holds about a third party or the firm itself (for example trade secrets: financial, commercial, scientific or technical information that may harm the commercial or financial interests of the organisation or the third party);
- If disclosure of the record would result in a breach of a duty of confidence owed to a third party in terms of an agreement;
- If disclosure of the record would endanger the life or physical safety of an individual;
- If disclosure of the record would prejudice or impair the security of property or means of transport;
- If disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme;
- If disclosure of the record would prejudice or impair the protection of the safety of the public;
- If the record is privileged from production in legal proceedings, unless the legal privilege has been waived;
- If disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of the firm;
- If disclosure of the record would put the firm at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- If the record is a computer program; and
- If the record contains information about research being carried out or about to be carried out on behalf of a third party or the firm.

10. REQUEST PROCEDURE

10.1. The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

10.2. The requester must complete the prescribed form enclosed here to as Appendix 1, and submit the form as well as payment of the request fee and a deposit, if applicable, to the Information Officer at the postal or physical address, fax number or electronic mail address as stated in paragraph 2 above.

10.3. The prescribed form must be filled in with enough particularity to enable the Information Officer to identify:

- The information and/or record or records requested;
- The identity of the requester;
- Which form of access is required, if the request is granted;
- The postal address or fax number of the requester.

10.4. The requester must state that he/she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

10.5. The firm will process the request within 30 days, unless the requester has stated special reasons which would satisfy the Information officer that circumstances dictate that the above time periods not be complied with.

10.6. The requester will be informed whether access is granted or denied. If, in addition, the requester requires the reasons for the decision he/she must state the particulars so required.

10.7. If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer.

10.8. In an individual is unable to complete the prescribed form because of illiteracy or disability, such as person may make the request orally.

10.9. The requester must pay the prescribed fee, before any further processing can take place.

11. REQUEST FEES

Section 54 of the Act provides for a private body to require a request fee to be paid by a requester before processing a request. The Minister of Justice has determined, by way of notice in the Gazette in terms of section 54(8) of the Act, the fee that may be charged. Information in regard to the fees payable is set out in Appendix 2.

12. OTHER INFORMATION (Section 51(1)(f) of the Act)

The Minister of Justice and Constitutional Development has to date not published any regulations in terms of this section.

13. AVAILABILITY OF THIS MANUAL (Section 51(3) of the Act)

13.1. This manual is available for inspection at the offices of Consulting Engineers South Africa, free of charge.

13.2. Copies of the manual may be obtained, subject to the prescribed fees, at the offices of Consulting Engineers South Africa.

13.3. The manual can also be accessed on the website of Consulting Engineers South Africa (www.cesa.co.za).

13.4. It should be noted that the manual accessible on the website of the SAHRC and in the Government Gazette, may not include the request form (Appendix 1) or fee structure (Appendix 2). The request forms and fee structure can be obtained on the SAHRC website (www.sahrc.org.za) or the website of the Department of Justice and Constitutional Development (www.doj.gov.za) (under "regulations").

APPENDIX 1 Form C Request for access to record of private body*(Section 53 (1) of the Promotion of Access to Information Act, 2000 (Act 2 of 2000))**[Regulation 10]***A Particulars of private body**

The Head: _____

B Particulars of person requesting access to the record*(a) The particulars of the person who requests access to the record must be given below.**(b) The address and/or fax number in the Republic to which the information is to be sent must be given.**(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

- (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 required to be paid as the request fee.
- (c) 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.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

F Form of access to 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:

NOTES:

- (a) Compliance with your request in the specified form may depend 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.

Form in which record is required: Mark the appropriate box with an X.

1 If the record is in written or printed form:

- copy of record*
- inspection of record

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| |

2 If record consists of visual images

(This includes photographs, slides, video recordings, computer-generated images, sketches, etc.):

- View the images
- Copy the images*
- Transcription of the images*

| |
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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)

| |
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| |

4 If record is held on computer or in an electronic or machine-readable form:

- Printed copy of record*
- Printed copy of information derived from the record*
- Copy in computer readable form* (memory stick 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? **A postal fee is payable**

G Particulars of right to be exercised or protected

*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 Indicate which right is to be exercised or protected:

2 Explain why the record requested is required for the exercise 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 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 _____ 2011

_____ **SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE**

APPENDIX 2 CHARGE SHEET FOR ACCESS TO INFORMATION ACT 2/2000 REQUESTS**REQUESTER'S DETAILS**

Name _____

Address _____

Ref No _____

PREPARED BY: Name _____

Date _____

Signature _____

Approved (Manager) _____

1. ACCESS FEES FOR REPRODUCTION

| Ref | Reproduction | Fee |
|-----|---|--------|
| 1.1 | For every photocopy of an A4-size page or part thereof | R 1.10 |
| 1.2 | For every photocopy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form | R 0.75 |
| 1.3 | For a copy in a computer-readable form on memory stick | R70.00 |
| 1.4 | For a copy in a computer-readable form on compact disc | R70.00 |
| 1.5 | For a transcription of visual images for an A4-size page or part thereof | R40.00 |
| 1.6 | For a copy of visual images | R60.00 |
| 1.7 | For a transcription of an audio record for an A4-size page or part thereof | R20.00 |
| 1.8 | For a copy of an audio record | R30.00 |

2. ACCESS FEE FOR TIME SPENT

| | |
|--|---------------------------|
| The time reasonably required to search for the record for disclosure and preparation | R30.00/hr or part thereof |
|--|---------------------------|

3. REQUEST FEE

| | |
|--|--------|
| For a request for access to a record by a person other than a personal Requestor | R50.00 |
|--|--------|

4. DEPOSIT**4.1** One third of the access fee is payable as a deposit by the requester**4.2** Six hours as the hours to be exceeded before a deposit is payable**5. POSTAL FEE**

| | |
|---|--------|
| When a copy of a record must be posted to the requestor | R 9.75 |
|---|--------|

6. APPEAL FEES

| | |
|---|--------|
| For lodging an internal appeal by a requester against the refusal of his/her request for access to a record | R50.00 |
|---|--------|

7. VAT

Private bodies registered under the Value Added Tax Act, 1991 (Act No. 89 of 1991) as vendors may add VAT to all the prescribed fees in terms of these regulations.