

FREQUENTLY ASKED QUESTIONS (FAQ)

THE PROMOTION OF ACCESS TO INFORMATION ACT NO. 2 OF 2000

WHAT IS THE PURPOSE OF THE ACT?

The purpose of the Promotion of Access to Information Act, 2000 (often referred to as “PAIA”) is to give effect to section 32 of the Constitution. Section 32 provides for “the right of access to information” and states that “everyone has the right of access to any information held by the State and to information held by another person that is required for the exercise or protection of any rights.”

The motivation for giving effect to the right of access to information is to foster a culture of transparency and accountability both in Public and Private Bodies; and to promote a society in which the people of South Africa have effective access to information, to enable them to more fully exercise and protect all their rights.

Examples of

- “Public Bodies” include National and Provincial Government Departments, Municipalities and State Owned Entities (e.g. Eskom, Telkom etc.).
- “Private Bodies” include a natural person or partnership that carries on trade, business or profession; and a former or existing juristic person.

WHAT INFORMATION CAN I REQUEST AND HAVE ACCESS TO FROM THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT OR ANY PUBLIC BODY FOR THAT MATTER?

- Any information or records, including personal information or records, held by the Department or its officials. It does not matter when that information or record came into existence.
- *To have a sense of the kind of information you may request, please request an Information Manual from the Deputy Information Officer of the Department **(the contact details of the Deputy Information Officer are available at the bottom of this brochure).***

WHAT INFORMATION MAY I BE REFUSED ACCESS TO BY THE DEPARTMENT?

The Act is not unlimited, therefore your request may be refused in certain cases (see, sections 7, 12 and Chapter 4 of PAIA). For example, you may not be given access to information under the following circumstances:

- Information or records about another person or entity, subject to access on these records being approved by such third parties, especially if information was given to the Department or Public Body on a confidentiality or privacy basis.
- If the record is requested for the purpose of criminal or civil proceedings, where the criminal or civil proceedings have commenced. If such information is obtained, it may not be used in a court of law, unless the court thinks that the exclusion of such information will be detrimental to the course of justice.
- The records of Cabinet and its Committees, and those records of an individual member of Parliament or of a Provincial Legislature in that capacity.

Please note that the PAIA is above any other legislation that prohibits or restricts you from having access to any information.

HOW DO I ACCESS INFORMATION?

The Director-General of any National Government Department is the Information Officer. In the case of the Department of Justice and Constitutional Development, the Director-General has appointed Deputy Information Officers to assist in the administration of the PAIA (*the contact details of the Information Officer and Deputy Information Officers are available at the bottom of this brochure*).

Therefore, in order to request information you must fill-in a “Form 2” and submit it to the Deputy Information Officers of the Department (*refer to the contact details of the Deputy Information Officer that are provided at the bottom of this brochure*).

Please take note that the Deputy Information Officer must help and guide you through all the processes.

WHAT INFORMATION (OR RECORD) IN THE DEPARTMENT IS FREELY ACCESSIBLE WITHOUT HAVING TO APPLY FOR IT?

Ask the Deputy Information Officers to make a list of such information available to you, alternatively, you can also find it in the Information Manual or on the website of the Department www.justice.gov.za/paia/paia.htm or from the Head of any office of the Department such as Regional Offices, Masters Offices or Magistrates' Office.

ARE THERE ANY FEES PAYABLE IN ORDER FOR ME TO ACCESS ANY INFORMATION?

Unless the requested information is made freely available, you shall be required to pay a "request fee" and may also be required to pay an "access fee" for copies of the requested records. The Deputy Information Officers will advise you on whether or not you are required to pay the fees.

HOW LONG WILL THE DEPUTY INFORMATION OFFICER TAKE TO MAKE A DECISION REGARDING MY REQUEST?

The Deputy Information Officer must provide you with a decision (either to provide or deny you access to the information or records) within 30 calendar days. The Deputy Information Officer may extend the period of 30 days by another period of 30 calendar days, however only one extension is allowed.

The period may be extended under certain prescribed circumstances, for example where the request is for a large number of records or where the requested information is at an office in another town from the office of the Deputy Information Officer.

Should the Deputy Information Officer not provide you with a decision within 30 days (or within 60 days if there was an extension) he or she is regarded as having refused your request (this is referred to as a "deemed refusal"). In this case of a "deemed refusal" you have a right to appeal to the Internal Authority (*see below*).

WHAT CAN I DO IF THE DEPUTY INFORMATION OFFICER DENIES ME ACCESS TO INFORMATION THAT I HAVE REQUESTED?

You have the right to appeal to the Internal Authority, who is the Minister. If you are still not satisfied with the decision of the Minister, you may either submit a complaint to the Information Regulator or make an application to a Court of Law for relief.

In order to lodge an appeal you must fill-in a "Form 4" (Notice of an internal appeal) and submit it to the Information Officer of the Department. The "Form 4" is available upon request from the Deputy Information Officer or from the Department's website www.justice.gov.za/paia/paia.htm.

The Deputy Information Officer must help and guide you through this process.

Please take note that there is no fee payable when you lodge an internal appeal.

Should you need any assistance or have further questions regarding how you may access information or records held by the Department (or by any Public Body), please do not hesitate to contact the Deputy Information Officers of the Department (or those of any Public Body).

Should you need to lodge a complaint with the Information Regulator, you may contact them as follows:-

Physical Address

JD House
4th Floor
27 Stiemens Street,
Braamfontein,
Johannesburg

Postal Address

P.O Box 31533;
Braamfontein,
Johannesburg,
2017

Telephone: +27 (0) 10 023 5200

E-mail: inforeg@justice.gov.za

Website: <https://www.justice.gov.za/inforeg/contact.html>

FEES FOR RECORDS OF PUBLIC BODY

Item	Description	Amount
1.	The “ request fee ” payable by every requester	R100.00

The “**access fees**” referred to in sections 22(6) of the Act (*unless the requester is exempted under section 22(8)*) are as follows:-

Item	Description	Amount
2.	Photocopy of A4-size page	R1.50 per page or part thereof
3.	Printed copy of A4-size page	R1.50 per page or part thereof
4.	For a copy in a computer-readable form on: <ul style="list-style-type: none"> (i) Flash drive (to be provided by requester) (ii) Compact disc <ul style="list-style-type: none"> • If provided by requester • If provided to the requester 	R40.00 R40.00 R60.00
5.	For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on quotation from Service provider.
6.	Copy of visual images	

7.	Transcription of an audio record, per A4-size	R24.00
8.	For a copy of an audio record on: (iii) Flash drive (to be provided by requester) (iv) Compact disc <ul style="list-style-type: none"> • If provided by requester • If provided to the requester 	R40.00 R40.00 R60.00
9.	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 search and preparation. To not exceed a total cost of	R100.00 R300.00
10	Deposit: If search exceeds 6 hours	One-third of amount per request, calculated in terms of items 2 to 8
11.	Postage, email or any other electronic transfer	Actual expense, if any

PERSON OR PERSONS EXEMPTED FROM PAYING ACCESS FEES	
A single person whose annual income does not exceed	R14,712.00
Married persons or a person and his/her life partner whose annual income does not exceed	R27,192.00

NOTE: Please take note of the following differences when making an application for access to information to a Public Body and a Private Body

	<u>Public Body</u>	<u>Private Body</u>
Application form to use	“Form 2”	“Form 2”
Request fee payable	R100.00	R140.00
Remedy <i>(when not satisfied with any decision of the Information Officer or Deputy Information Officer)</i>	<ul style="list-style-type: none"> • Internal appeal to the Relevant Authority • Use “Form 4” • No fee payable 	<i>(there is no internal appeal)</i>
Remedy <i>(only when not satisfied with the outcome of the Internal Appeal)</i>	<ul style="list-style-type: none"> • Complaint to Information Regulator <u>OR</u> • Application to Magistrates’ Court 	<ul style="list-style-type: none"> • Complaint to Information Regulator <u>OR</u> • Application to Magistrates’ Court

Issued by: *Office of the Deputy Information Officer*

Department: *Justice and Constitutional Development*

Tel: *012 – 357 8892 / 8544*

PAIA email: paia@justice.gov.za

PAIA website: www.justice.gov.za/paia/paia.htm

Postal Address: *Private Bag x81,*

Pretoria

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Physical Address: *Momentum Building,*

329 Pretorius Street,

Pretoria,

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