

South Africa

Promotion of Access to Information Act, 2000

Regulations relating to the Promotion of Access to Information, 2021

Government Notice R757 of 2021

Legislation as at 27 August 2021

FRBR URI: /akn/za/act/gn/2021/r757/eng@2021-08-27

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Regulations relating to the Promotion of Access to Information, 2021

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Published in Government Gazette 45057 on 27 August 2021

Commenced on 27 August 2021

[This is the version of this document from 27 August 2021.]

I Ronald Ozzy Lamola, the Minister of Justice and Correctional Services, hereby, under section 92 of the Promotion of Access to Information Act, 2000 ([Act No. 2 of 2000](#)), make the regulations in the Schedule.

Chapter 1 General

1. Definitions

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

"**complainant**" for purposes of the Regulations, means a requester or a third party, as defined in section 1 of the Act;

"**guide**" means the guide contemplated in section 10 of the Act;

"**information officer**" for purposes of the Regulations, includes the head of a private body, as defined in section 1 of the Act, and may include a deputy information officer, if so delegated in terms of section 17 of the Act;

"**in writing**" includes in the form of a data message and accessible in a manner usable for subsequent reference, as contemplated in section 12 of the Electronic Communications and Transactions Act, 2002 ([Act No. 25 of 2002](#));

"**signature**" includes a signature contemplated in section 13 of the Electronic Communications and Transactions Act, 2002; and

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

Chapter 2 Availability of guide

2. Obligations of Information Regulator

- (1) The Information Regulator must make the guide available in each of the official languages—
 - (a) by publication in the *Government Gazette*;
 - (b) at the Office of the Information Regulator, for inspection, during normal office hours;
 - (c) on the website of the Information Regulator; and

- (d) to the Director-General of the Department of Government Communication and Information Systems.
- (2) The Information Regulator must make available, upon the written request of any person, including an information officer, on a form which corresponds substantially with Form 1 of Annexure A to the Regulations, the number of copies of the guide in the official languages, as requested.
- (3) The Information Regulator may not charge any fee for—
 - (a) a copy of the guide made available in terms of subregulation (2); or
 - (b) inspection of a copy of the guide at the office of the Information Regulator.

3. Obligations of information officer

- (1) An information officer must have a copy of the guide, in at least two of the official languages, at his or her registered head office, for public inspection during normal office hours.
- (2) An information officer must make available, upon the written request of any person, on a form which corresponds substantially with Form 1 of Annexure A to the Regulations, the number of copies of the guide in the official languages, as requested.
- (3) An information officer may not charge a fee for—
 - (a) a copy of the guide made available in terms of subregulation (2); or
 - (b) inspection of a copy of the guide at the office of the information officer.

Chapter 3

Access to information

4. Automatic availability of certain records of public bodies

- (1) The information officer of a public body, must compile and keep a description of the categories of records contemplated in section 15(1)(a) of the Act, that are automatically available without a requester having to request access thereto.
- (2) The description contemplated in subregulation (1) must be updated as soon as practically possible after an amendment to the description occurs.
- (3) The description must be made available—
 - (a) to the Information Regulator;
 - (b) on the website of the public body; and
 - (c) for inspection, at the head office of a public body concerned during normal office hours.
- (4) A requester may request a copy of a record referred to in subregulation (1) and must be provided with such copy, upon payment of the fee for reproduction, as provided for in items 2 to 8 of Annexure B to the Regulations.

5. Voluntary disclosure and automatic availability of certain records of private bodies

- (1) The Head of a private body, may compile and keep a description of the categories of records contemplated in section 52(1)(a) of the Act that are—
 - (a) voluntarily disclosed; or
 - (b) automatically available without a requester having to request access thereto.

- (2) If a description contemplated in subregulation (1) is compiled and kept, it must be—
 - (a) updated as soon as practically possible after any amendment to the description occurs; and
 - (b) made available—
 - (i) to the Information Regulator;
 - (ii) on the website of the private body; and
 - (iii) for inspection, at the registered head office of a private body concerned during normal office hours.
- (3) A requester may request a copy of a record referred to in subregulation (1) and must be provided with such copy, upon payment of the fee for reproduction, as provided for in items 2 to 8 of Annexure B to the Regulations.

6. Availability of records of political parties

The records contemplated in section 52A(1)(b) of the Act must be available for inspection—

- (a) from Monday to Friday, excluding public holidays, from 8h00 to 16h00 at the physical business address of a political party; and
- (b) electronically on the website of the political party, if that political party has a website.

7. Request for access to information

- (1) A request for access to a record contemplated in section 18(1) or 53(1) of the Act, must be made on a form that corresponds substantially with Form 2 of Annexure A to the Regulations, to the information officer.
- (2) The information officer must—
 - (a) assist a requester with any request with regards to a request for access to information; and
 - (b) if a request for access to a record is made orally as a result of illiteracy or a disability of a requester, complete Form 2 of Annexure A to the Regulations on behalf of the requester and provide a copy thereof to the requester, as contemplated in section 18(3) of the Act.
- (3) The request fee payable by every requester referred to in section 22(1) or 54(1) of the Act is prescribed in item 1 of Annexure B to the Regulations.

8. Outcome of request and fees payable

- (1) The information officer must, if a request for access to a record referred to in regulation 7 of the Regulations is granted or refused, inform the requester of—
 - (a) his or her decision; and
 - (b) the fees payable as provided for in Annexure B to the Regulations,on a form that corresponds substantially with Form 3 of Annexure A to the Regulations; Provided that a request for a copy of the guide may not be refused.
- (2) A person who requests—
 - (a) a copy of a record contemplated in regulation 4 or 5 of the Regulations; or
 - (b) access to a record as contemplated in regulation 7 of the Regulations,may be charged the fee for reproduction and postage as prescribed in Annexure B to the Regulations, if the request is granted.

- (3) If—
- (a) the search for a record in respect of which a request for access has been made; and
 - (b) the preparation of the record for disclosure, including any arrangements contemplated in section 29(2)(a) and (b)(i) and (ii)(aa) of the Act,
- would, in the opinion of the information officer, require more than six hours for these purposes, the information officer must, on a form which corresponds substantially with Form 3 of Annexure A to the Regulations, inform the requester to pay as a deposit, a portion of the access fee: Provided that the amount payable as a deposit, must not exceed one third of the amount payable, if the request is granted.
- (4) The fee for the search for and preparation of the record contemplated in section 29(2)(a) and (b)(i) or 54(2)(a) and (b)(i) of the Act is as provided for in item 9 of Annexure B to the Regulations.

9. Internal appeal against decision of information officer of a public body

A complainant may lodge an internal appeal against a decision of the information officer of a public body as contemplated in section 75(1) of the Act, on a form which corresponds substantially with Form 4 of Annexure A to the Regulations.

Chapter 4 Complaints to Information Regulator

10. Lodging of complaints

A complaint contemplated in section 77A of the Act, must be lodged in writing on a form that corresponds substantially with Form 5 of Annexure A to the Regulations, to the Information Regulator.

11. Procedure regarding investigation of complaints

- (1)
 - (a) Upon receipt of a complaint contemplated in section 77A of the Act, the Information Regulator must, on a form which corresponds substantially with Form 6 of Annexure A to the Regulations, acknowledge receipt of the complaint.
 - (b) The Information Regulator must inform the complainant, as contemplated in section 77E of the Act, whether—
 - (i) the Information Regulator will investigate the complaint further; or
 - (ii) the complaint will be referred to the Enforcement Committee, established in terms of section 50 of the Protection of Personal Information Act, 2013 ([Act No. 4 of 2013](#)).
- (2) If the Information Regulator decides to investigate the complaint as contemplated in section 77C(1)(a) of the Act, it must, within 20 working days after receipt of the complaint on a form that corresponds substantially with Form 7 of Annexure A to the Regulations—
 - (a) bring the complaint to the attention of the information officer concerned;
 - (b) inform the information officer concerned of its intention to investigate the complaint; and
 - (c) request the information officer concerned to respond to the complaint and produce any item or document, on which he or she based his or her decision.
- (3) The information officer concerned must, within 20 working days after receipt of the complaint from the Information Regulator, respond in writing to the complaint and submit any item or document to the Information Regulator, in the manner the Information Regulator requests.

- (4) For purposes of the investigation, the Information Regulator has all the powers and functions as determined in section 77G of the Act.
- (5) The Information Regulator must, within a reasonable time from the date of a decision being made or action being taken—
 - (a) keep the complainant and the information officer concerned and any other party to the matter, informed of the developments of the investigation; and
 - (b) inform the complainant, the information officer concerned and any other party to the matter of the results of the investigation,on a form that corresponds substantially with Form 8 of Annexure A to the Regulations.
- (6) The Information Regulator may, during its investigation as contemplated in subregulation (1)(b) if it appears that the Enforcement Committee is better suited to investigate the complaint, refer the complaint to the Enforcement Committee, and must in writing inform the complainant accordingly.

12. Settlement of matter

- (1) If it appears from a complaint or any written reply to the complaint—
 - (a) under section 77E(b)(ii) of the Act; or
 - (b) during a conciliation meeting,that it may be possible to secure a settlement between the parties, the Information Regulator may confer with the parties—
 - (i) in person; or
 - (ii) by means of electronic communication,as is deemed appropriate to endeavour to obtain a settlement.
- (2) If during the process referred to in subregulation (1) the Information Regulator decides to convene a settlement meeting, the Information Regulator must, as soon as it is practically possible, inform the parties on a form that corresponds substantially with Form 9 of Annexure A to the Regulations of the date, time and place of the settlement meeting.
- (3) For the purpose of settlement proceedings, the Information Regulator has the same powers as a conciliator contemplated in regulation 13(3) and (4) of the Regulations.
- (4) The Information Regulator must issue a settlement certificate on a form that corresponds substantially with Form 10 of Annexure A to the Regulations, within a reasonable time after the date of the conclusion of the settlement meeting.
- (5) If no settlement is secured or if either or both of the parties did not wish to attend a settlement meeting, the Information Regulator must proceed with the matter as provided for in terms of section 77C of the Act.

13. Conciliation of matter

- (1) If—
 - (a) on receipt of a complaint;
 - (b) during its investigation; or

- (c) on receipt of any written response from the information officer of a public body or the head of a private body, in terms section 77E(b)(ii) of the Act,

it becomes clear to the Information Regulator that the complaint, or certain aspects of the complaint, could successfully be settled, the Information Regulator, may conduct conciliation proceedings and act as conciliator in the matter.
- (2) The Information Regulator must convene a conciliation meeting as soon as it is practically possible and inform the complainant, the information officer concerned or any other party to the matter, on a form that corresponds substantially with Form 11 of Annexure A to the Regulations—
 - (a) of the Information Regulator's decision to act as a conciliator in the matter;
 - (b) of the name of the conciliator;
 - (c) of the date, which must be at least 10 working days after this notification, of the time and place of the conciliation meeting; and
 - (d) that in the event of non-attendance by either party or both, the Information Regulator may summon the appearance of persons before the Information Regulator.
- (3) The Information Regulator—
 - (a) may consolidate separate complaints, which are alleged to relate to the same matter by the same information officer, in order to deal with the complaints in the same conciliation proceedings;
 - (b) must ensure that all persons entitled to attend the conciliation meeting are notified within a reasonable time, of the date, time and place of the meeting;
 - (c) may request all the relevant documentation relating to the complaint from the complainant, information officer or other party to the matter;
 - (d) may confer with the parties in person, by means of electronic communication, or by any other means as is deemed appropriate; and
 - (e) may—
 - (i) encourage parties to communicate with each other with a view to settle the matter;
 - (ii) assist the parties to narrow down the issues in dispute;
 - (iii) take an active role in the proceedings, including summarising the various options available to the parties and the strengths and weaknesses of the matter;
 - (iv) offer an opinion as to the issues of factual or legal disputes between the parties;
 - (v) give advice about cost implications and other legal consequences; and
 - (vi) make any proposal to the parties with a view to settle the matter.
- (4) Where a conciliation meeting fails to take place, the Information Regulator must arrange for an alternative date and notify the persons entitled to attend the conciliation meeting accordingly.
- (5) The Information Regulator must issue a conciliation certificate which corresponds substantially with Form 12 of Annexure A to the Regulations within a reasonable time after the date of the conclusion of the conciliation meeting.
- (6) If the complaint is not resolved, or either or both of the parties did not attend a conciliation meeting, the Information Regulator must proceed with the complaint as provided for in terms of section 77C(1) of the Act.

14. Assessment

- (1) A request by an information officer for an assessment in terms of section 77H(1) of the Act must be submitted to the Information Regulator in writing on a form that corresponds substantially with Form 13 of Annexure A to the Regulations, together with substantiated reasons for the request.
- (2) If the Information Regulator receives a request for an assessment in terms of subregulation (1) or on its own initiative decides, to make an assessment as contemplated in section 77H(1) of the Act, it must—
 - (a) inform the public or private body in writing on a form that corresponds substantially with Form 14 of Annexure A to the Regulations of the request for an assessment received, or of its decision to make an assessment on its own initiative; and
 - (b) request the public or private body to answer in writing, with substantiated reasons why an assessment is unnecessary, within the time specified by the Information Regulator.
- (3) On receipt of an answer and substantiated reasons why an assessment is unnecessary, or after the date specified in the notice has expired, whether or not an answer and substantiated reasons were received, the Information Regulator must—
 - (a) decide whether an assessment will be conducted or not; and
 - (b) inform—
 - (i) the public or private body; and
 - (ii) if a request for assessment was received, the person who requested an assessment, in writing on a form that corresponds substantially with Form 15 of Annexure A to the Regulations, whether or not, it has decided to conduct an assessment, within a reasonable time from the date that the decision was made.
- (4) The—
 - (a) period of assessment; and
 - (b) manner of assessment,will be determined by the Information Regulator on a case by case basis.
- (5) When making an assessment, the Information Regulator must take the following into account:
 - (a) The nature of the body in question;
 - (b) the services it provides to the public or a group of persons;
 - (c) the purpose of the information under assessment;
 - (d) the likely effect of non-compliance, or of future or continued non-compliance with the Act by the body concerned;
 - (e) whether such non-compliance has been committed before;
 - (f) whether the body was previously made aware of its earlier or current non-compliance;
 - (g) the steps taken by the body to comply with the Act; and
 - (h) the most effective solution in the public interest to remedy the non-compliance.
- (6) On conclusion of the assessment, the Information Regulator must compile an assessment report, containing its detailed findings and recommendations, if any.

- (7) If the Information Regulator has made a finding that the public or private body is not complying with the provisions of the Act, the Information Regulator must deal with the matter as if a complaint is lodged with it in terms of section 77A of the Act.
- (8) The Information Regulator must notify—
 - (a) the public or private body; and
 - (b) the person who requested an assessment, if a request was received,of any decision made, or action taken, or view formed on a form that corresponds substantially with Form 16 of Annexure A to the Regulations, within a reasonable time from the date that the decision was made or action taken or view formed.

Chapter 5

Miscellaneous

15. Electronic communication

The provisions of the Electronic Communications and Transactions Act, 2002, are applicable to all forms, records, documents or any information, which are electronically communicated.

16. Offences and penalties

An information officer who willfully or in a grossly negligent manner charges a fee other than the fee prescribed in terms of the Regulations, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

17. Repeal and transitional provisions

- (1) The regulations published under Government Notice No. R. 187 of 15 February 2002, as amended by Government Notices Nos R. 1244 of 22 September 2003, R. 990 of 13 October 2006, R. 466 of 1 June 2007 and R. 307 of 1 April 2021, are hereby repealed.
- (2) Anything done under a provision of a regulation repealed by subregulation (1) and which could have been done under a provision of these Regulations, is regarded as having been done under the latter provision.

18. Short title

These Regulations are called the Regulations relating to the Promotion of Access to Information, 2021.

Annexure A (Regulations 2 and 3)

Forms

[Editorial note: The forms have not been reproduced.]

Annexure B**Fees****Fees in respect of public bodies**

Item	Description		Amount
1.	The request fee payable by every requester		R100.00
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:		
	(i)	Flash drive (to be provided by the requestor)	R40.00
	(ii)	Compact disc	
		• If provided by requestor	R40.00
		• If provided to the requestor	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 page		R24.00
8.	Copy of an audio record on:		
	(i)	Flash drive (to be provided by the requestor)	R40.00

	(ii)	Compact disc	
		<ul style="list-style-type: none"> If provided by requestor 	R40.00
		<ul style="list-style-type: none"> If provided to the requestor 	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.		R100.00
	To not exceed a total cost of		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, e-mail or any other electronic transfer		Actual expense, if any.

Fees in respect of private bodies

Item	Description		Amount
1.	The request fee payable by every requester		R140.00
2.	Photocopy of A4-size page		R2.00 per page or part thereof.
3.	Printed copy of A4-size page		R2.00 per page or part thereof.
4.	For a copy in a computer-readable form on:		
	(i)	Flash drive (to be provided by the requestor)	R40.00
	(ii)	Compact disc	
		• If provided by requestor	R40.00
		• If provided to the requestor	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 page		R24.00
8.	Copy of an audio record on:		
	(i)	Flash drive (to be provided by the requestor)	R40.00
	(ii)	Compact disc	
		• If provided by requestor	R40.00

		<ul style="list-style-type: none"> If provided to the requestor 	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.		R145.00
	To not exceed a total cost of		R435.00
10.	Deposit: If search exceeds 6 hours		One third of amount per request calculated in terms of items 2 to 8.
11.	Postage, e-mail or any other electronic transfer		Actual expense, if any.