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MANUAL

IN ACCORDANCE WITH

**THE PROMOTION OF ACCESS TO
INFORMATION ACT (NO. 2 OF 2000)**



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**PROMOTION OF ACCESS TO INFORMATION ACT, 2000
(PAIA)**

FILM AND PUBLICATION BOARD

**MANUAL, IN TERMS OF SECTION 14 OF THE PAIA,
ON ACCESS TO INFORMATION HELD BY THE
FILM AND PUBLICATION BOARD**

INTRODUCTION

The *Promotion of Access to Information Act, No. 2 of 2000 (PAIA)*, is a response to section 32 of the *Constitution*, which provides that every one has the right of access to :

- any information held by the State; and
- any information that is held by another person¹ and that is required for the exercise or protection of any² rights.

The purpose of the *PAIA*, as stated in its preamble, is twofold :

- to foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information, and
- to actively promote a society in which people would have effective access to all information necessary for the full and proper exercise and protection of their rights.

The Manual sets out the categories of information held by the Film and Publication Board, contact details and the form for requesting access to records held by the Board. Guidelines on how to use the *PAIA*, a tariff of applicable fees and other information may be obtained from the South African Human Rights Commission at the address set out in paragraph 3 of the Manual.

¹ Includes a "juristic" person

² Not restricted to "constitutional" rights

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1 Functions and structure of the Film and Publication Board [Section 14(1)(a)]

1.1 Functions

The Film and Publication Board (the "Board") was established in terms of section 3(1)(a) of the *Films and Publications Act, 1996*, as amended, (the "Act"), to perform the functions necessary to achieve the objects of the Act, set out as follows in section 2:

".....to regulate the creation, production, possession and distribution of certain publications and certain films by means of classification, the imposition of age restrictions and the giving of consumer advice, due regard being had in particular to the protection of children against sexual exploitation or degradation in publications, films and on the Internet, and.....make the exploitative use of children in pornographic publications, films or on the Internet, punishable."

Specifically, the Board :

- examines and classifies all films, computer games and publications submitted to it in terms of the Act;
- monitors the "industry" to ensure compliance with its decisions, especially with regard to those decisions intended to protect children from potentially disturbing and harmful materials and from premature exposure to adult experiences;
- monitors the business of adult premises to ensure compliance with the conditions set out in section 24 of the Act;
- provides such assistance as is necessary to law enforcement agencies in the investigation and prosecution of child pornography offenders., and
- informs the public about the purpose and significance of classification decisions and consumer advice.

1.2 Structure

The Board consists of a Chief Executive Officer and two Senior Executive Officers, constituting the Executive Committee, and a panel of Chief Examiners and Examiners appointed through a process of public nominations. The Chief Executive Officer is the Chairperson of the Board and the Executive Committee. Materials submitted to the Board are examined and classified by classification committees, consisting of a chief examiner and at least two examiners, appointed from the panel of chief examiners and examiners. Administrative staff and part-time monitors complete the Board's complement of personnel.

2 Contact details [Section 14(1)(b)]**Information Officer**

The Chief Executive Officer

Deputy Information Officers

Senior Executive Officers

Address

13th Floor
Pleinpark Building
Plein Street
CAPE TOWN
8000

Private Bag X9069
CAPE TOWN
8000

Tel (021) 465 6518

Fax (021) 465 6511

e-mail : fpbmail@fpb.wcape.gov.zawebsite : www.fpb.gov.za**3 Guide on how to use the Act [Section 14(1)(c)]**

The guide referred to in section 10 of the *Promotion of Access to Information Act* is available from the South African Human Rights Commission, either through its website at www.sahrc.org.za or from the Information Officer at :

Boundary Road
Isle of Houghton – Wilds View
Entrance 1
Houghton
JOHANNESBURG

Private Bag 2700
HOUGHTON
2041

Tel (011) 484 8300

Fax (011) 484 1360

e-mail : requestsPAIA@sahrc.org.za

4 Access to records held by the Board [Section 14(1)(d)]

The Board maintains records of all films, computer games and publications submitted for classification, as well as of any enquiries conducted in terms of section 24(2) of the Act.

4.1 Subjects and categories of records held

Classification	Reports of classification committees and the Review Board on films, computer games and publications classified
Exemptions	List of films and computer games exempted from classification for special purposes or under special circumstances
Registration	List of distributors and/or exhibitors of films registered with the Board
Complaints	Letters of complaint from the public
Minutes	Minutes of meetings of the Board, the Executive Committee and the Audit Committee
Library	Selection of videos, DVDs and computer games classified for general and adult premises
Police	Certificates issued in terms of sections 27 and 28 of the Act with respect to child pornography investigations and prosecutions
Reports	Annual Reports and Financial Statements from 1998 Report on the National Conference on Combating Child Pornography (2000) Report of the Task Team on Child Pornography (1999) Report of the Task Force on Film and Publication Control (1994)
Research Papers	Research papers on the effects of the media on children

4.2 Request for access

A request for access to a record of the Board may be made by completing Form A, Annexure B, Regulation 6, reproduced at the end of this manual.

5 **Categories of records available without request [Section 14(1)(e)]**

The following publications and records are available from the Board's website at www.fpb.gov.za :

Annual Report 2001-02

The Act and Regulations

Classification Guidelines

Reports of the Film and Publication Review Board

Press Releases from the Board

Procedures and forms for the submission of materials for classification and/or exemption, registration and lodging of complaints

(A database of classification decisions and registered exhibitors and/or distributors is under preparation and will be available on the website as soon as the capture of the information has been completed.)

6 ***The request procedures***

The requester must comply with the procedures set out in the *Promotion of Access to Information Act*, any Regulations made in terms of that Act and in the Section 14 Manual produced by the South African Human Rights Commission, as well as any conditions imposed by the Board unless inconsistent with the Act, Regulations and Manual referred to in this section.

7 ***Grounds of refusal***

In addition to the grounds of refusal set out in the *Promotion of Access to Information Act*, no materials or copies will be provided of, or access allowed to, materials containing child pornography unless the requester is a member of a law enforcement agency and the record or access thereto is necessary for the purpose of investigation and/or prosecution.

8 **Services available to the public [Section 14(1)(f)]**

8.1 ***List of services***

- Examination and classification of films, computer games and publications
- Exemptions from provisions of the Act for *bona fide* purposes
- Conducting enquiries with regard to the conduct of the business of adult premises and general video/DVD outlets
- Providing advice to licensing authorities with regard to appropriate conditions for the issue of licenses for the business of adult premises
- Providing advice with regard to Internet-safety for children
- Conducting public information campaigns on issues relevant to the objects of the Act and on Internet-safety for children, and
- Monitoring compliance with the Act.

8.2 Access to services

Access to any of the services available from the Board may be gained by making a request, in writing, to the Information Officer. (See paragraph 2 above for contact details)

9 Public involvement in the formulation of policy or exercise of powers [Section 14(1)(g)]

The core function of the Board is the classification of films, computer games and publications to protect children from exposure to potentially disturbing and harmful materials and to provide consumer information to enable the public to make appropriate viewing and reading choices, both for themselves and for children in their care. The Act provides for public participation in the appointment of examiners [section 6(3)] and for establishing guidelines that are used in the classification process [section 31(3)]. Invitations to the public to participate in both processes are made via the media.

Additionally, the public may participate in the formulation of classification guidelines by submitting proposals and/or lodging complaints or criticisms of its decisions to the Chief Executive Officer. (See contact details at paragraph 2 above) The Board would also, upon receipt of a written request, arrange for the attendance of certain members of the public at classification sessions to observe and comment on the classification process.

10 Remedies available [Section 14(1)(h)]

The Board, as a national public entity making decisions of an administrative nature, is subject to the *Promotion of Administrative Justice Act* and the remedies for acts of omission and commission provided in that Act. In addition, the Board's enabling Act provides for appeals to the Film and Publications Review Board and the High Court. [Sections 19 and 20 of the Act]

11 Other information [Section 14(1)(i)]

No other information for inclusion in this manual has been prescribed to date.

12 Availability of the manual

Copies of this manual, in English, Xhosa or Sotho, may be obtained from the Board (see paragraph 2 above for contact details). The manual may also be accessed at the Board's website at www.fpb.gov.za. Copies may also be available at the following places of legal deposit:

- The City Library, Bloemfontein
- The Library of Parliament, Cape Town
- The Natal Society Library, Pietermaritzburg
- The State Library, Pretoria
- The South African Library, Cape Town, and
- The National Film, Video and Sound Archives, Pretoria.

ANNEXURE B**FORM A**

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY
 (Section 18(1) of the *Promotion of Access to Information Act, 2000*
 (Act No. 2 of 2000))
[Regulation 6]

FOR DEPARTMENTAL USE	
Request received by :	Reference number:
_____ (state rank, name and surname of information officer/deputy information officer) on _____ (date) at _____ (place).	
Request fee (if any): R	
Deposit (if any): R	
Access fee: R	
_____ SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER	

A. Particulars of public body

The Information Officer/Deputy Information Officer:

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:

(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 below, state your disability and indicate in which form the record is required.

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

NOTES:

(a) Compliance with your request for access 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.

1. If the record is in written or printed form:

<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	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.):

<input type="checkbox"/>	view the images	<input type="checkbox"/>	copy of the images*	<input type="checkbox"/>	transcription of the images*
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3. If record consists of recorded words or information which can be reproduced in sound:

<input type="checkbox"/>	Listen to the soundtrack (audio cassette)	<input type="checkbox"/>	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:

<input type="checkbox"/>	printed copy of record*	<input type="checkbox"/>	printed copy of information derived from the record*	<input type="checkbox"/>	copy in computer readable form* (stiffy or compact disc)
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*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?

Postage is payable.

YES	NO
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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.

In which language would you prefer the record?

G. 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 _____ 20

SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF
REQUEST IS MADE

This manual is also available in Xhosa and Sotho, and may be available in other languages. Please contact the Film and Publication Board for further details.

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