

**DEPARTMENT OF MINERALS  
AND ENERGY  
(DME)**

**ACCESS TO INFORMATION  
MANUAL**

**2003**

**Issued in terms of Section 14 of the  
Promotion of Access to Information Act, 2000  
(Act 2 of 2000)**

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## **1. INTRODUCTION**

The Promotion of Access to Information Act, No 2 of 2000 (“the Act”) gives effect to the constitutional right of access to any information held by any public or private body that is required for the exercise or protection of any rights. The Act sets out the procedures attached to such request.

Section 9 of the Act, however, recognises that such right to access to information is subject to certain justifiable limitations, for instance limitations aimed at:

- the reasonable protection of privacy;
- commercial confidentiality; and
- effective, efficient and good governance.

Section 14 of the Act obliges public bodies to compile a Manual, which would assist a person to obtain access to information held by the public body and stipulates the minimum requirements a manual has to comply with.

The purpose of this manual is therefore to inform a person on how to obtain access to records held by the Department of Minerals and Energy (the Department), giving effect to Section 14 of the Act.

## **2. Human Rights Commission Guide on how to use the Act [Section 14(1)(c)]**

The South African Human Rights Commission is to compile a guide, in an easily comprehensible form and manner, as may be required by a person who wishes to exercise any right contemplated in the Act.

This guide will be available in all the official languages from the South African Human Rights Commission by not later than August 2003.

Any enquiries regarding this guide should be directed to:

The South African Human Rights Commission

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### **3. STRUCTURE AND FUNCTIONS OF THE DEPARTMENT**

#### **3.1 OVERVIEW**

The mission of the Department of Minerals and Energy is to ensure responsible exploration, development, processing, utilisation and management of minerals and energy resources in South Africa.

Its legislative mandate is to provide services for the effective Governance of the minerals and energy industries for economic growth and development, thereby improving the quality of life of all South Africans.

#### **3.2 ORGANISATIONAL STRUCTURE**

The Ministry of Minerals and Energy is headed by the Minister of Minerals and Energy, Ms. Phumzile Mlambo-Ngcuka, and Deputy Minister Ms. Susan Shabangu.

The Accounting Officer and Head of the Department is the Director General, Advocate Sandile Nogxina.

The Department is further divided into four Branches, namely:

- Electricity and Nuclear Energy.
- Hydrocarbons, Energy Efficiency and Renewable Energy
- Mineral Development, and
- Mine Health and Safety.

### **4. CONTACT DETAILS OF THE INFORMATION OFFICER AND DEPUTY INFORMATION OFFICERS**

**Information Officer:**

Adv. S Nogxina  
Director-General  
Private Bag X59  
PRETORIA  
0001

Tel: (012) 317 9000  
Fax: (012) 320 4327

**Deputy Information Officers** Mr J Raphela  
Executive Assistant  
Office of the Director-General  
Private Bag X59  
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Chief Director:  
Management Services  
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Chief Director:  
Mineral Resource Management  
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## **5 SUBJECTS AND CATEGORIES OF INFORMATION**

### **5.1 Automatic disclosure of records [Section 14(1)(e)] [Section 15(2)]**

The records listed here are automatically available without a person having to request access in terms of the Act. These have not yet been gazetted as prescribed in the Act.

The Deputy Information Officers can be contacted to get access to these records:

NOTE: There is a fee payable for the copies. (See paragraph 7 below)

Some of the records below are in certain instances available free of charge, e.g. via the Department's website at <http://www.dme.gov.za>

- Annual reports
- Audit reports
- Acts and Bills relevant to the Department (see list)
- Policy documents
- Guidelines
- Statistics
- Forms
- Research in the public domain

### **5.2 Categories of records available that may be requested in terms of the Act [Section 14 (1)(d)]**

Access to the records listed here are those that have to be requested in terms of the Act. These records can be requested from the Department of Minerals and Energy Information Officers according to the request procedures as described in paragraph 6 below.

## **Agendas & Minutes**

## **Agreements**

- Bilateral
- International

## **Contracts**

## **Delegations**

## **Finance**

- Departmental Budget
- Fund Cash Flow
- Fund Expenditure
- Institutional Funds Report

## **Mandates**

## **Personnel Records**

- Advertisements
- Appointments
- Housing Records
- Injury on Duty
- Leave Records
- Pensions
- Performance Appraisals Records
- Personnel Selection
- Promotions
- Records provided by personnel
- Remuneration Records
- Salary Scales
- Transfers

## **Plans**

Business Plans  
Human Resource Plans

## **Policies**

## **Programmes**

Employee Assistance Programme  
Empowerment Programmes  
HIV/AIDS Programme

## **Reports**

Audit Reports

## **Strategies**

## **6. REQUEST FOR INFORMATION PROCEDURE**

### **Step 1: Application process**

The requester must complete the request form (Form A) which is available on the Department's website at <http://www.dme.gov.za>, and is also obtainable upon request from Ms. R Mong at Tel: (012) 317 9042, and submit it as follows:

#### **By hand:**

The Information Officer  
Department of Minerals and Energy  
Sinodale Centre  
228 Visagie Street  
Corner of Visagie and Andries Streets  
Pretoria

#### **By Post:**

The Information Officer  
Department of Minerals and Energy

Private Bag X59  
Pretoria  
0001

**By Fax:**  
The Information Officer  
Department of Minerals and Energy  
+27 12 320 4327

An amount of R35.00 must accompany the request for information. This is payable by cheque or cash (if delivered by hand).

### **Step 2: Validation and acknowledgement**

The Information officer receives and validates the request to see whether the required information is available within the Department. The request is then accepted, rejected or transferred to the rightful keepers of the required information. An acknowledgement is then forwarded to the requester to confirm the status of the request.

### **Step 3: Information processing**

If the request is accepted, the Department will gather and prepare the information and calculate the relevant cost involved. The cost is calculated in respect of paragraph 7.

### **Step 4: Final Notification**

The requester will be informed of the completion of the request as well as the outstanding fees payable to the Department.

### **Step 5: Payment and delivery**

Once the payment as stipulated in Step 4 is received (following the same payment process as stipulated in Step 1), the information is released to the requestor.

### **General Information**

The prescribed form must be completed with enough particularity to at least enable the Information Officer to identify:

- The 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.

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 to be exercised or protected. In addition, the Requester must clearly specify why the record is necessary to exercise or protect such a right.

The institution will process the request within 30 days, unless the Requestor has stated special reasons, which would satisfy the Information Officer, that circumstances dictate that the above time periods should not be complied with. The 30-day period with which the institution has to decide whether to grant or refuse the request may be extended for a further period of not more than thirty days if the request is for a large amount of information, or the request requires a search for information held at another office of the institution and the information cannot reasonably be obtained within the original 30 day period. The institution will notify the requester in writing should an extension be sought.

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.

If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally. The Requester must pay the prescribed fee, before any further processing can take place.

## **7. Fees**

The Act provides for two types of fees:

- (1) A request fee, which will be a standard fee; and
- (2) an access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.

When the request is received by the Information Officer, such officer shall by notice require the Requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing of the request.

If a search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Information Officer shall notify the requester to pay as a deposit the prescribed portion of the access fee, which would be payable if the request is granted.

The Information Officer shall withhold a record until the Requester has paid the relevant fees as indicated below.

A Requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure, including making arrangements to make it available in the requested form.

If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the Requester.

### **Fees In Respect Of Public Bodies**

For purposes of section 22(2) of the Act, the following applies:

The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) = **R35,00**

Copy of the manual as contemplated in regulation 5(c) (for every photocopy of an A4-size page or part thereof) = **0,60c**

The fees for reproduction referred to in regulation 7(1) are as follows:

- 1) For every photocopy of an A4-size page or part thereof = 0,60c
- 2) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine = 0,40
- 3) For a copy in a computer-readable form on
  - a) stiffy disc = R5.00
  - b) compact disc (readable form) = R40.00
- 4) For a transcription of visual images
  - a) for an A4-size page or part thereof = R22,00
  - b) For a copy of visual images = R60,00
- 5) For a transcription of an audio record
  - a) for an A4-size page or part thereof = R12.00

b) For a copy of an audio record = R17,00

The access fees payable by a requester referred to in regulation 7(3) are as follows:

- 1) For every photocopy of an A4-size page or part thereof = 0,60c
- 2) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine - readable form 0,40c
- 3) For a copy in a computer-readable form on a) stiffy disc = R5,00  
b) compact disc = R40,00
- 4) For a transcription of visual images, for an A4-size page or part thereof = R22,00
- 5) For a copy of visual images = R60,00
- 6) For a transcription of an audio record,
  - a) for an A4-size page or part thereof = R12.00
  - b) For a copy of an audio record = R17.00

To search for and prepare the record for disclosure, R15,00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation The actual postage is payable when a copy of a record must be posted to a requester. Postage cost is dependent on the relevant tariff in terms of postage destination.

## **8. REMEDIES WHERE REQUESTS FOR ACCESS TO INFORMATION ARE REFUSED**

### **8.1. Refusal of Request**

The main grounds for the institution to refuse a request for information relates to the:

- (1) Mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- (2) Mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;

- information disclosed in confidence by a third party to the institution, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- (3) Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
  - (4) Mandatory protection of the safety of individuals and the protection of property;
  - (5) Mandatory protection of records which would be regarded as privileged in legal proceedings;
  - (6) The commercial activities of the institution, which may include:
    - trade secrets of the institution;
    - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the institution;
    - information which, if disclosed could put the institution at a disadvantage in negotiations or commercial competition;
    - a computer programme which is owned by the institution, and which is protected by copyright;
  - (7) The research information of the institution or a third party, if its disclosure would disclose the identity of the institution, the researcher or the subject matter of the research and would place the research at a serious disadvantage.

Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

## **8.2. Appeal**

- (1) A requester may lodge an internal appeal against a decision of the information officer of a public body
  - (a) to refuse a request for access; or
  - (b) taken in terms of section 22, 26(1) or 29(3), in relation to that requester with the relevant authority.
- (2) A third party may lodge an internal appeal against a decision of the information officer of a public body referred to in paragraph (a) of the definition of “public body” in Section 1 of the Act, to grant a request for access.

An appeal must be lodged in the prescribed form:

- within 60 days;
- if notice to a third party is required, within 30 days after notice is given to the appellant of the decision appealed against; or
- if notice to the appellant is not required, after the decision was taken it must be delivered or sent to the information officer of the public body concerned at his or her address, fax number or electronic mail address;
- must identify the subject of the appeal and state the reasons for the internal appeal and may include any other relevant information known to the appellant;
- if, in addition to a written reply, the appellant wishes to be informed of the decision on the internal appeal in any other manner, must state that manner and provide the necessary particulars to be so informed;
- if applicable, must be accompanied by the prescribed appeal fee, and must specify a postal address or fax number.

If an appeal is lodged after the expiry of the period referred to, the relevant authority must, upon good cause shown, allow the late lodging of the appeal.

If that relevant authority disallows the late lodging of the appeal, he or she must give notice of that decision to the person who lodged the appeal.

A Requester lodging an appeal against the refusal of his or her request for access must pay the prescribed appeal fee (if any).

If the prescribed appeal fee is payable in respect of an appeal, the decision on the appeal may be deferred until the fee is paid.

As soon as reasonably possible, but in any event within ten (10) working days after receipt of an appeal, the Information Officer of the public body concerned must submit to the relevant authority:

- the appeal together with his or her reasons for the decision concerned;
- and if the appeal is against the refusal or granting of a request for access, the name, postal address, phone and fax number and electronic mail address, whichever is available, of any third party that must be notified of the request.

## **9. SERVICES**

In pursuance of its statutory mandate, the Department of Minerals and Energy regulates the mineral and energy sectors in such a manner so as to provide services for the effective Governance of minerals and energy industries, for economic growth and development, thereby improving the quality of life.

To maintain high health and safety standards in mines, the Department's Inspectors of Mines conduct accident investigations, health and safety inspections and Health and Safety audits. Where risky conditions are identified at mines, instructions are issued. Hereby accidents are reduced to the minimum.

The Department, through its regional offices, further processes and grants applications for prospecting and mining rights to qualifying applicants. Further assistance is rendered to small-scale miners through the National Small Scale Mining Steering Committee (NSC).

The protection of the environment is also facilitated through Implementation of environmental management plans, rehabilitation of derelict and ownerless mining complexes, thereby ensuring reduced exposure of surrounding communities.

The Directorate Mineral Economics renders an important service in the promotion of South Africa's mineral resources. Through its distribution of approximately 10 000 publications last year, a significant increase in mineral sales was effected.

Through its integrated National Electrification Programme, the Department is endeavouring to improve the quality of service and supply of electricity. Annually, there is an increased number of electrified households in South Africa, and approximately 660 schools and 40 clinics a year are electrified. The Programme also provides for a free basic electricity allowance to consumers.

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