



**PROMOTION OF ACCESS TO INFORMATION
ACT NO. 2 OF 2000
MANUAL**

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1. Introduction

Section 32 of the Constitution of the Republic of South Africa, No. 108 of 1996 (**“the Constitution”**) provides:

- (1) Everyone has the right of access to –***
 - (a) any information held by the state; and***
 - (b) any information that is held by another person and that is required for the exercise or protection of any rights.***
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.***

The Promotion of Access to Information Act, No.2 of 2000 (**“the Act”**), was enacted on 3rd February 2002 to give effect to section 32 of the Constitution, that is giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of this Act, the private or public body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The Act sets out the requisite procedural issues attached to such request. The Act came into effect on 9 March 2001 with the exception of sections 10, 14,16 and 51 that were brought into operation on 15 February 2002.

2. Who May Request Information in terms of the Act

Any person, who requires information for the exercise or protection of any rights, may request information from a private body. Section 50 of the Act states that:

- (1) A requester must be given access to any record of a private body if –***
 - (a) that record is required for the exercise or protection of any rights;***
 - (b) that person complies with the procedural requirements in this Act relating to a request for access to that record; and (c) access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.***

3. Procedures for Obtaining Access

3.1 Contact Details

Any person who wishes to request any information from The Endangered Wildlife Trust with the aim of protecting or exercising a right may contact the Chief Operations Officer whose contact details are as follows:

Requests to be addressed to:	Chief Operations Officer
Postal address:	The Endangered Wildlife Trust Private Bag X11 Modderfontein 1645
Street address:	Building K2, Pinelands Office Park Ardeer Road Modderfontein 1609
Phone number:	(011) 372 3600
Fax number:	(011) 608 4682
E-mail address:	ewt@ewt.org.za

3.2 Prescribed Access Form

In terms of section 53, a request for access to a record of The Endangered Wildlife Trust must be made on the prescribed form to The Endangered Wildlife Trust at the address, fax number or electronic mail address given above. The form requires the requester to provide the following information:

- sufficient information to enable the Chief Operations Officer to identify the requester;
- sufficient information to enable the Chief Operations Officer to identify the record(s) requested;
- the requester's postal address or fax number;
- identification of the right sought to be exercised or protected;
- an explanation on why the record is required to exercise or protect that right;
- the manner in which the requester wishes to be informed of the decision on the request, if in a manner in addition to written notification; and
- if the request is made on behalf of a person, the submission of proof of the capacity in which the requester makes the request, to the satisfaction of the Chief Operations Officer.

Refer to **Annexure A** to this manual for the format of the prescribed form. Requesters please note that all of the information as listed above should be provided, failing which the process will be delayed while The Endangered Wildlife Trust requests such additional

information. The prescribed time periods will not commence until all pertinent information has been furnished to The Endangered Wildlife Trust by the requester.

3.3 Prescribed Fees

Payment of fees is regulated in terms of section 54 of the Act. The Regulations to the Act provide for two types of fees:

- **Request fee:** This is a non-refundable administration fee paid by all requesters, with the exclusion of personal requesters. (Refer to paragraph 3.3.2 below for the definition of personal requester) It is paid before the request is considered.
- **Access fee:** This is paid by all requesters only when access is granted. This fee is intended to reimburse the private body for the costs involved in searching for a record and preparing it for delivery to the requester.

The Endangered Wildlife Trust may withhold a record until the request fee and the deposit (if applicable) have been paid. Refer to **Annexure B** below for a list of applicable fees.

3.3.1 Requester other than Personal Requester

The Chief Operations Officer must give written notice to a requester, other than a personal requester, of the request fee and amount to be paid before the request may be further processed.

If in the Chief Operations Officer's opinion the search for a record, or preparation of the record for disclosure will require more than the prescribed hours, the Chief Operations Officer may require the requester to pay a deposit, not being more than one third of the access fee that would be payable if the request is granted. If the request is declined, the deposit must be repaid to the requester.

The notice given by the Chief Operations Office must advise the requester that s/he has a right to apply to court against the payment of the request fee or deposit, and should also advise of the procedure of the application.

3.3.2 Personal Requester

A personal requester is described, in terms of the Act, as a requester seeking access to a record containing information about the requester.

A personal requester is not liable to pay a request fee, but is liable for payment of access fees in the event of a request being granted, but may not be required to pay a deposit before the granting of the record.

4. Human Rights Commission Guideline

The Human Rights Commission has compiled a guide intended to assist users in the interpretation of the Act. The guide contains a description of the aims of the Act, the contact details of the information officers of all the public bodies, particulars of the public bodies, the manner of access to the records of those public bodies and the remedies available in law regarding a breach of any of the provisions of the Act.

The South African Human Rights Commission's contact details are as follows:

Private Bag 2700

Houghton

2041

Tel: 011 484 8300

Fax 011 484 1360

Web-site: www.sahrc.org.za

5. Categories of records

5.1 Human Resources Division

Records found in this division contain information of employees that include the following:

- (i) any personal records provided to The Endangered Wildlife Trust by the employee/personnel
- (ii) any records a third party has provided to The Endangered Wildlife Trust about its personnel
- (iii) conditions of employment and other personnel-related contractual and quasilegal records
- (iv) internal evaluation records
- (v) other internal records and correspondence related to the particular employee

5.2 Client-related records

Clients include both juristic and natural entities that receive a service from The Endangered Wildlife Trust.

This information includes:

- (i) any records a client has provided to a third party acting for and on behalf of The Endangered Wildlife Trust
- (ii) any records a third party has provided to The Endangered Wildlife Trust; and
- (iii) records generated by or within The Endangered Wildlife Trust pertaining to the client, including transactional records

5.3 The Endangered Wildlife Trust records

This category of records relates, but is not limited to, the following information:

- (i) Financial records
- (ii) Operational records
- (iii) Databases
- (iv) Information technology
- (v) Marketing records
- (vi) Internal correspondence
- (vii) Product records
- (viii) Statutory records
- (ix) Internal policies and procedures
- (xi) Securities and equities
- (xii) Records held by officials of The Endangered Wildlife Trust

Each request will be evaluated on its own merits. If any record falls within any of the categories of exemptions, then such a request will be refused.

5.4 Other Parties

The Endangered Wildlife Trust may possess records pertaining to other parties, including without limitation, contractors, suppliers, joint venture companies/organisations, funders, service providers. Alternatively, such other parties may possess records that can be said to belong to The Endangered Wildlife Trust.

The following records fall under this category:

- Personnel, client or The Endangered Wildlife Trust records which are held by another party as opposed to being held by The Endangered Wildlife Trust; and
- Records held by The Endangered Wildlife Trust pertaining to other parties, including without limitation financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors / suppliers.

5.5 Records available in terms of other legislation

The requester may also request information that is available in terms of legislation, such as the following:

- Basic Conditions of Employment Act (Act No. 75 of 1997)
- Compensation for Occupational Injuries & Diseases Act (Act No. 130 of 1993)
- Employment Equity Act (Act No. 55 of 1998)
- Labour Relations Act (Act No. 66 of 1995)
- Occupational Health and Safety Act (Act No. 85 of 1993)
- Promotion of Equality and Prevention of Unfair Discrimination Act (Act No. 4 of 2000)

- Skills Development Act (Act No. 97 of 1998)
- Skills Development Levies Act (Act No. 9 of 1999)
- South African Qualifications Authority Act (Act No. 58 of 1995)

In terms of the above legislation, information relating to personnel may be requested.

- Companies Act (Act No. 61 of 1973)
- Short-term Insurance Act (Act No. 53 of 1998)
- Financial Markets Control Act (Act No. 55 of 1989)
- Financial Services Board Act (Act No. 97 of 1990)

Records relating to company reporting and Company related records as far as is allowed in terms of these Acts may be requested.

- Income Tax Act (Act No. 58 of 1962 as amended)
- VAT Act (Act No. 89 of 1991)

Records relating to tax, employees and the company may be requested in terms of the above Acts.

The Chief Operations Office will take into consideration section 8 of the manual to decide on whether or not access to any of the information stated above should be given to the requester.

6. Decision-making process

6.1 In terms of Section 55, the Chief Operations Office will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the Chief Operations Office must notify the requester by way of affidavit or affirmation, that it is not possible to give access to the record. This is deemed to be a refusal of the request. If, however, the record is later found, the requester must be given access if the request would otherwise have been granted.

6.2 Section 56 provides that the Chief Operations Officer must within 30 days of receipt of a correctly completed request, notify the requester of the decision as to whether or not to grant the request. If the request is:
Granted: the notification must state the applicable access fee required to be paid, together with the procedure to be followed should the requester wish to apply to court against such fee, and the form in which access will be given.
Declined: the notification must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon, and provide the procedure to be followed should the requester wish to apply to court against the decision.

6.3 The Chief Operations Officer may extend the period of 30 days by a further period not exceeding 30 days if:

- the request is for a large number of records or requires a search through a large number of records;
- the request requires a search for records located in a different office of The Endangered Wildlife Trust not situated in the same city;

- consultation between divisions of The Endangered Wildlife Trust, or with another private body is required; or
- the requester consents to the extension.

The requester must be notified within the initial 30-day period in writing of the extension, together with reasons therefore, and the procedure involved should the requester wish to apply to court against the extension. The Chief Operations Officer's failure to respond to the requester within the 30-day period constitutes a deemed refusal of the request.

6.4 Section 59 provides that the Chief Operations Officer may sever a record and grant access only to that portion which the law does not prohibit access to.

If access is granted, access must be given in the form that is reasonably required by the requester, or if the requester has not identified a preference, in a form reasonably determined by the Chief Operations Officer.

7. Third Parties

If the request is for a record pertaining to a third party, the Chief Operations Officer must take all reasonable steps to inform that third party of the request. This must be done within 21 days of receipt of the request. The manner in which this is done must be in the fastest means reasonably possible, but if orally, the Chief Operations Officer must thereafter give the third party a written confirmation of the notification. The third party may within 21 days thereafter either make representation to The Endangered Wildlife Trust as to why the request should be refused, alternatively grant written consent to the disclosure of the record. The third party must be advised of the decision taken by the Chief Operations Officer on whether to grant or decline the request, and must also be advised of his/her/its right to appeal against the decision by way of application to court within 30 days after the notice.

8. Grounds for Refusal of a Request

Notwithstanding compliance with section 50, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:

8.1 Section 63 of the Act prohibits the unreasonable disclosure of the personal information of natural-person third parties to requesters. This includes the personal information of deceased persons. However Section 63(2) does provide exceptions to this.

8.2 Section 64 states that a request must be refused if it relates to records containing third party information pertaining to:

- trade secrets;
- financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or

- information, supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition.

The information must, however, be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

- 8.3** Section 65 prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.

- 8.4** In terms of section 66, The Endangered Wildlife Trust must refuse a request for access to a record of the body if disclosure could reasonably be expected to:

- endanger the life or physical safety of an individual;
- prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property
- The Endangered Wildlife Trust may also refuse a request for access to information that would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.

- 8.5** Section 67 mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.

- 8.6** Section 68 pertains to records containing information about The Endangered Wildlife Trust itself and unlike the other provisions pertaining to decline of a request, is not mandatory, but rather discretionary. The Endangered Wildlife Trust may refuse access to a record if the record:

- contains trade secrets of The Endangered Wildlife Trust
- contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of The Endangered Wildlife Trust
- contains information which, if disclosed, could reasonably be expected to put The Endangered Wildlife Trust at a disadvantage in contractual or other negotiations, or prejudice The Endangered Wildlife Trust in commercial Competition; or
- consists of a computer program owned by The Endangered Wildlife Trust

Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

- 8.7** Section 69 prohibits the disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of

the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to The Endangered Wildlife Trust itself.

Notwithstanding any of the above-mentioned provisions, section 70 provides that a record must be disclosed if its disclosure would:

- reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and
- if the public interest in the disclosure clearly outweighs the harm.

9. Rights of Appeal

A requester that is dissatisfied with the Chief Operations Officer's refusal to grant access to any information may, within 30 days of notification of the decision, apply to court for relief. Likewise, a third party dissatisfied with the Chief Operations Officer's decision to grant a request may, within 30 days of notification of the decision, apply to court for relief. It should be noted that notwithstanding any provision in this Act, the court may examine the record(s) in question. No record may be withheld from the court on any grounds. The court may not, however, disclose the contents of the record(s).

The court is empowered to grant any order that is just and equitable, including:

- confirming, amending or setting aside the Chief Operations Officer's decision
- requiring the Chief Operations Officer to take any action, or refrain from taking any action as identified by the court within a specified period;
- granting an interdict, interim or special relief, declaratory order or compensation;

or

- an order as to costs.

**ANNEXURE A
REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY**

(Section 53(1) of the Promotion of Access to Information Act, 2000(Act No. 2 of 2000))

[Regulation 10]

A. Particulars of private body: _____

B. Particulars of person requesting access to the record: _____

- a. The particulars of the person who requests access to the record must be given.
- b. The address and /or fax number in the Republic to which the information is to be sent must be given.
- c. Proof of capacity in which the request is made, if applicable, must be attached

Full names and surname: _____

Identity number: _____

Postal Address: _____

Fax number: _____

Telephone: _____

E-mail address: _____

Capacity in which request is 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 additional folios.**

Description of record or relevant part of the record: _____

Reference number, if available: _____

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: _____

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				
2. If record consists of visual images (This includes photographs, slides, video recordings, computer-generated images, sketches etc)						
View images*		Copy of images*		Transcript of Images		
3. If record consists of recorded words or information which can be reproduced in sound						
4.						
Listen to the soundtrack		Transcription of soundtrack* (written or printed document)				
5. 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*		
					Yes	No

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		
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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

ANNEXURE B

FEES IN RESPECT OF PUBLIC BODIES

1. The fee for a copy of the manual as contemplated in regulation 5(c) is R0,60 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 7(1) are as follows:
 - (a) For every photocopy of an A4-size page or part thereof R0,60
 - (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form R0,40
 - (c) For a copy in a computer-readable form on -
 - (i) stiffy disc R 5.00
 - (ii) compact disc 40.00
 - (d) (i) For a transcription of visual images, for an A4-size page or part thereof R22,00
(ii) For a copy of visual images R60,00
 - (e) (i) For a transcription of an audio record, for an A4-size page or part thereof R12,00
(ii) For a copy of an audio record R17,00
3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is R35,00.
4. The access fees payable by a requester referred to in regulation 7(3) are as follows:
 - (1)
 - (a) For every photocopy of an A4-size page or part thereof R0,60
 - (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form R0,40
 - (c) For a copy in a computer-readable form on:
 - (i) stiffy disc R5,00
 - (ii) compact disc R40,00
 - (d) (i) For a transcription of visual images, for an A4-size page or part thereof R22,00
(ii) For a copy of visual images R60,00
 - (e) (i) For a transcription of an audio record, for an A4-size page or part thereof R12,00
(ii) For a copy of an audio record R17,00
 - (f) 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.
 - (2) For purposes of section 22(2) of the Act, the following applies:
 - (a) Six hours as the hours to be exceeded before a deposit is payable; and
 - (b) one third of the access fee is payable as a deposit by the requester.
 - (3) The actual postage is payable when a copy of a record must be posted to a requester.

FEES IN RESPECT OF PRIVATE BODIES

1. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1,10 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 11(1) are as follows:
 - (a) For every photocopy of an A4-size page or part thereof R1,10
 - (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form R0,75
 - (c) For a copy in a computer-readable form on -
 - (i) stiffy disc R7,50
 - (ii) compact disc R70,00
 - (d)
 - (i) For a transcription of visual images, for an A4-size page or part thereof R40,00
 - (ii) For a copy of visual images R60,00
 - (e)
 - (i) For a transcription of an audio record, for an A4-size page or part thereof R20,00
 - (ii) For a copy of an audio record R30,00
3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00.
4. The access fees payable by a requester referred to in regulation 11(3) are as follows:
 - (1)
 - (a) For every photocopy of an A4-size page or part thereof R1,10
 - (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form R0,75
 - (c) For a copy in a computer-readable form on -
 - (i) stiffy disc R7,50
 - (ii) compact disc R70,00
 - (d)
 - (i) For a transcription of visual images, for an A4-size page or part thereof R40,00
 - (ii) For a copy of visual images R60,00
 - (e)
 - (i) For a transcription of an audio record, for an A4-size page or part thereof R20,00
 - (ii) For a copy of an audio record R30,00
 - (f) To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.
 - (2) For purposes of section 54(2) of the Act, the following applies:
 - (a) Six hours as the hours to be exceeded before a deposit is payable; and
 - (b) one third of the access fee is payable as a deposit by the requester.
 - (3) The actual postage is payable when a copy of a record must be posted to a requester.