



PROMOTION OF ACCESS TO INFORMATION MANUAL

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1. RIGHT OF ACCESS TO INFORMATION

1.1. Introduction

The 1996 South African Constitution, by providing a statutory right of access on request to any record held by the state as well as access to records held by private bodies, entrenches the fundamental right to access to information.

The Promotion of Access to Information Act 2 of 2000 (“the Act”), which came into effect on 9 March 2001, seeks to advance the values of transparency and accountability in South Africa and provides the mechanism for requesters to exercise and protect their constitutional right to request access to a record.

The Act establishes the following statutory rights of requesters to any record of a private body if:

- That record is required for the exercise or protection of any of his or her legal rights;
- That requester complies with all the procedural requirements; and
- Access is not refused in terms of any ground referred to in the Act.

In terms of the Act private bodies are required to publish a manual to assist requesters who wish to request access to a record.

1.2. Availability of the CES PAIA Manual and Entry Point for requests

This document serves as the CES PAIA Manual (“the Manual”) in accordance with the requirements of section 51 of the Act to facilitate access to records held by CES. A copy of this Manual is available to any person of the public in a PDF (“Portable Document Format”) version on the website of CES at www.cesnet.co.za or on request from the Information Officer referred to in this Manual. CES endorses the spirit of the Act and believes that this Manual will assist requesters in exercising their rights.

In summary the Manual provides information on the:

- Contact details of the Information Officer;
- Structure and functions of CES;
- Subjects and categories of records that are held by CES; and
- Procedure that needs to be followed and criteria that have to be met by a requester to request access to a record.

1.3. Who may request access to information

The Act provides that a requester is only entitled to access to a record if the record is required for the exercise or protection of a right. Only requests for access to a record, where the requester has satisfied the Information Officer that the record is required to exercise or protect a right, will be considered. A requester may act in different capacities in making a request for a record. This will influence the amount to be charged when a request has been lodged.

Requesters may make a request as:

- A personal requester who requests a record about him/herself;
- An agent requester who requests a record on behalf of someone else with that person's consent and where it is required for the protection of that person's legal right;
- A third party requester who requests a record about someone else with that person's consent and where it is required for the protection of that person's legal right; and
- A public body who may request a record if:
 - It fulfills the requirements of procedural compliance;
 - The record is required for the exercise or protection of a right; and
 - No grounds for refusal exist.

1.4. Contact Details of CES Information Officer: Sec 51 (1) (a)

The Information Officer below, in terms of the Act, handles all requests on CES's behalf and ensures that the requirements of the Act are administered in a fair, objective and unbiased manner.

CES contact details

Information Officer: Ted Avis

Deputy Information Officer: Muranda Altichiero

Physical Address:

67 African Street
Grahamstown
6139

Tel: +27 (0) 21 045 0902

Fax: +27 (0) 86 410 7593

E-mail: t.avis@cesnet.co.za

E-mail: info@cesnet.co.za

E-mail: m.altichiero@cesnet.co.za

1.5. Policy with regard to Confidentiality and Access to Information

CES will protect the confidentiality of information provided to it by third parties, subject to CES's obligations to disclose information in terms of any applicable law or a court order requiring disclosure of the information. If access is requested to a record that contains information about a third party, CES is obliged to attempt to contact this third party to inform them of the request.

This enables the third party the opportunity of responding by either consenting to the access or by providing reasons why the access should be denied. In the event that the third party furnishing reasons for the support or denial of access, the Information Officer will consider these reasons in determining whether access should be granted, or not.

1.6. SAHRC guidance to Requesters on how to use the Act: Sec 51 (1) (b)(i)

The Information Regulator is required in terms of section 10 of the Act to update and make available the existing guide that has been compiled by the South African Human Rights Commission (“SAHRC”) that contains information to assist a person wishing to exercise a right in terms of the Act and the Protection of Personal Information Act 4 of 2013 (“POPI Act”) for requesters. It contains information to assist a person wishing to exercise a right in terms of the Act.

The SAHRC guide is available from the SAHRC website at:
www.sahrc.org.za/home/21/files/Reports/PAIA20%GUIDE%english.pdf

You may also request any additional information to assist you in making a request from the SAHRC.

Please direct any queries to: The South African Human Rights Commission: PAIA Unit

Physical Address: Postal Address:

Forum 3 Braampark Office Park, Braamfontein	Private Bag 2700 Houghton, 2041
Tel: +27 (0) 11 877 3600 (Head Office) +27 (0) 11 877 3750 (GP Office)	Fax: +27 (0) 11 403 0684
E-mail: info@sahrc.org.za	Website: www.sahrc.org.za

2. CES GROUP STRUCTURE

2.1. Scope

This Manual has been prepared in respect of CES.

The scope of this Manual will exclude CES’s operations outside South Africa and will serve to provide a reference regarding the records held by CES at its Registered Office and various operations.

2.2. CES Profile and Structure

CES, a specialist environmental company, have adopted a sound and rigorous scientific approach to all the work it does. In addition, CES believes that a balance between development and environmental protection can be achieved through skilful and careful planning. CESs exemplary 30 plus year track record across over 20 African countries and in South Africa, is evidence of the value that CES bring to the environmental and social advisory services, particularly in its deep understanding of the environmental and social challenges associated with establishing and operating facilities and infrastructure in emerging markets.

CES staff are all exceptionally well qualified, with many being industry-recognised experts. In addition, CES has well-developed working relationships with a number of other individual specialists and specialist consulting companies, who provide CES with expertise in disciplines such as air quality impact assessments, noise impacts, heritage assessments, radiation hazard assessments, groundwater studies and health impact assessments. CES has a demonstrated ability to manage EIAs for large and complex projects.

3. CLASSES OF RECORDS

3.1. Automatic Disclosure: Sec 51 (1)(b)(ii)– Records automatically available to the Public

No notice has been published in terms of section 52 of the Act. However, the following records are automatically available at the registered office of CES on payment of the prescribed fee for reproduction.

- Documentation and information relating to CES which is held by the Companies and Intellectual Properties Commission in accordance with the requirements set out in section 25 of the Companies Act 71 of 2008.
- Product and Promotional Brochures
- News and other Marketing Information

3.2. Legislative requirements: Sec 51 (1)(b)(iii) – Records available in accordance with other legislation

Records are kept in accordance with such other legislation as applicable to CES, which includes, but is not limited to:

- Banks Act 94 of 1990
- Basic Conditions of Employment Act 75 of 1997
- Broad-Based Black Economic Empowerment Act 53 of 2003
- Civil Proceedings Evidence Act, 1965 (Act 25 of 1965)
- Companies Act 71 of 2008
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Competition Act 89 of 1998
- Constitution of South Africa Act 108 of 1996
- Copyright Act 98 of 1987
- Consumer Protection Act 68 of 2008
- Criminal Procedure Act 51 of 1977
- Customs and Excise Act, 1964
- Deeds Registries Act 57 of 1937
- Debt Collectors Act 114 of 1998
- Electronic Communications and Transactions Act 25 of 2002
- Employment Equity Act 55 of 1998
- Finance Act 2 of 2007
- Firearms Control Act 60 of 2000;
- Income Tax Act 58 of 1962
- Insider Trading Act 135 of 1998
- Insolvency Act 24 of 1936

- Labour Relations Act 66 of 1995
- Long Term Insurance Act 52 of 1998
- Magistrates Court Act 32 of 1944
- Non Profit Organisations Act 71 of 1997
- Occupational Health and Safety Act 85 of 1993
- Patents Act 57 of 1987
- Pension Funds Act 24 of 1956
- Prevention of Organised Crime Act 14 of 1998
- Protection of Information Act, No. 84 of 1982
- Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002
- Securities Services Act 36 of 2004
- Short Term Insurance Act. 53 of 1998
- Skills Development Act 97 of 1998
- Skills Development Levies Act 97 of 1999
- South African Revenue Service Act 34 of 1997
- Statistics Act 6 of 1999
- Tax on Retirement Funds Act No 38 of 1996
- Trust Property Control Act 57 of 1988
- Unemployment Insurance Act 63 of 2001
- Value Added Tax Act 89 of 1991

Although CES has used its best endeavours to supply you with a list of applicable legislation it is possible that the above list may be incomplete.

Wherever it comes to CES's attention that existing or new legislation allows a requester access on a basis other than that set out in the Act, we shall update the list accordingly.

3.3. Records held by CES: Sec 51 (1)(b)(iv) – CES Record Subjects and Categories

3.3.1. Corporate Affairs and Investor Relations / Communications

- Media Releases
- Newsletters and Publications
- Corporate Social Investment
- Public Records
- SENS releases

3.3.2. Corporate Secretariat and Governance

- Applicable Statutory Documents
- Annual Reports
- Board of Directors and Board Committee Terms of Reference
- Codes of Conduct
- Executive Committee Meeting Minutes

- Legal Compliance Records
- Memoranda of Incorporation
- Minutes of Board of Directors and Board Committee Meetings
- Minutes of Shareholders' Meetings
- Company Policies and Procedures
- Share Certificates
- Shareholder Agreements
- Share Registers (CES's official share register is however maintained by its transfer secretary)
- Strategic plans
- Statutory Returns to Relevant Authorities

3.3.3. Finance and Taxation

- Policies and Procedures
- Accounting Records
- Annual Financial Statements
- Audit Reports
- Capital Expenditure Records
- Investment Records
- Invoices and Statements
- Management Reports
- Purchasing Records
- Sale and Supply Records
- Tax Records and Returns
- Treasury Dealing
- Transactional Records

3.3.4. Human Resources

- Education and Training Records
- Employee Benefit Records
- Employment Contracts
- Employment Equity Records
- Employee Information
- Employee Share Option Scheme
- Policies and Procedures
- Group Life
- Leave Records
- Medical Records
- Pension and Retirement Funding Records
- Study assistance scheme/s
- Tax Returns of employees
- UIF Returns

3.3.5. Information Technology

- Agreements
- Disaster Recovery
- Hardware and Software Packages
- Policies and Procedures
- Internal Systems Support and Programming
- Licenses
- Operating Systems

3.3.6. Intellectual Property

- Trademark applications
- Agreements relating to intellectual property
- Copyrights

3.3.7. Legal

- Complaints, pleadings, briefs and other documents pertaining to any actual or pending litigation, arbitration or investigation
- Material licenses, permits and authorizations

3.3.8. Sales, Marketing and Communication

- Brochures, Newsletters and Advertising Material
- Client Information
- Marketing Brochures
- Marketing Strategies
- Product Brochures
- Policies and Procedures

4. PROCESSING OF PERSONAL INFORMATION IN TERMS OF THE POPI ACT

4.1. CES processes personal information of data subjects for the purposes of: Sec 51 (1)(c)(i)

- Fulfilling its statutory obligations in terms of applicable legislation;
- Verifying information provided to CES;
- Obtaining information necessary to provide contractually agreed services to a customer;
- Monitoring, maintaining and managing CES's contractual obligations to customers, clients, suppliers, service providers, employees, directors and other third parties;
- Marketing and advertising;

- Resolving and tracking complaints;
- Monitoring and securing the assets, employees and visitors to the premises of CES;
- Historical record keeping, research and recording statistics necessary for fulfilling CES's business objectives.

4.2. CES may process the personal information of the following categories of data subjects, which includes current, past and prospective data subjects: Sec 51 (1)(c)(ii)

- Customer and employees, representatives, agents, contractors and service providers of such customers;
- Suppliers, service providers to and vendors of CES and employees, representatives, agents, contractors and service providers of such suppliers and service providers;
- Directors of CES;
- Job applicants;
- Existing and former employees (including contractors, agents, temporary and casual employees);
- Visitors to any premises of CES; and
- Complaints, correspondents and enquiries.

4.2. The nature of personal information processed in respect of the above data subjects may include, as may be applicable: Sec 51 (1)(c)(ii)

- Name, identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- Biometric information;
- Information relating to the education or the medical, financial, criminal or employment history of the data subject;
- Information relating to the race, gender, marital status, national origin, age disability, language and birth of the data subject;
- The personal opinions, views or preferences of the data subject;
- Confidential correspondence sent by the data subject;
- The views of opinions of another individual about the data subject.

4.3. CES may supply personal information to the following recipients: Sec 51 (1)(c)(iii)

- Regulatory, statutory and government bodies;
- Suppliers, service providers, vendors, agents and representatives of CES;
- Employees of CES;
- Shareholders and other stakeholders;
- Third party verification agencies and credit bureau;
- Collection agencies;
- Banks and other financial institutions.

4.4. Planned or prospective transborder flow of personal information processed by CES in respect of the above categories of data subjects: Sec 51 (1)(c)(iv)

Personal information of data subjects may be transferred across borders due to the hosting of some CES infrastructure and application in foreign jurisdictions. Current employees and consultants' information may also be transferred transborder where CES has a physical presence or may be providing services or performing in terms of its contractual obligations.

4.5. Security measures implemented or to be implemented by CES to ensure the confidentiality, integrity and availability for the personal information which may be or is being processed by CES: Sec 51 (1)(c)(v)

CES continuously establishes and maintains appropriate, reasonable technical and organisational measures to ensure that the integrity of the personal information in its possession or under its control is secure and that such information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration or access by having regard to the requirements set forth in law, in industry practice and generally accepted information security practices and procedures which apply to CES.

5. ACCESS PROCEDURE AND REQUESTS

The purpose of this section is to provide requesters with sufficient guidelines and procedures to facilitate a request for access to a record held by CES.

It is important to note that an application for access to information can be refused in the event that the application does not comply with the procedural requirements of the Act. In addition, the successful completion and submission of an access request form does not automatically allow the requester access to the requested record. An application for access to a record is subject to certain limitations if the requested record falls within a certain category as specified within Part 3 Chapter 4 of the Act.

If it is reasonably suspected that the requester has obtained access to the CES records through the submission of materially false or misleading information, legal proceedings may be instituted against such requester.

5.1. Guidance on Completion of Prescribed Access Form: Sec 51 (1) (b)(iv)

In order for CES to facilitate your access to a record you need to complete the attached prescribed access form attached as Annexure A. Please take note that the prescribed access form must be completed in full, failure to do so will result in the process being delayed until such additional information is provided. CES will not be held liable for delays due to receipt of incomplete forms. Due cognisance should be taken of the following instructions when

completing the Access Request Form because the Information Officer shall not process any request for access to a record until satisfied that all requirements have been met:

- The Access Request Form must be completed in the English language.

- Proof of identity is required to authenticate the requester's identity. If the requester acts as an agent requester, the requester shall provide proof of the identity of the person on whose behalf the request is made, the authority or mandate given to the requester by such person and proof of the identity of the requester as provided above.
- Type or print in BLOCK LETTERS an answer to every question.
- If a question does not apply, state "N/A" in response to that question.
- If there is nothing to disclose in reply to a particular question, state "nil" in response to that question.
- If there is insufficient space on a printed form in which to answer a question, additional information may be provided on an additional attached folio.
- When the use of an additional folio is required, precede each answer thereon with the title applicable to that question.

5.2. Submission of Prescribed Access Form

The completed Access Request Form must be submitted either via conventional mail, e-mail or fax and must be addressed to the Information Officer.

5.3. Payment of Prescribed Fees

Payment details can be obtained from the Information Officer and payment can be made either via a direct deposit, by bank guaranteed cheque or by postal order (no credit card payments are accepted). Proof of payment must be supplied. Four types of fees are provided for in terms of the Act:

- Request fee: An initial, non-refundable R57.00 (incl. VAT) is payable on submission. This fee is not applicable to Personal Requesters, referring to any person seeking access to records that contain their personal information.
- Reproduction fee: This fee is payable with respect to all records that are automatically available.
- Access fee: If the request for access is successful an access fee may be required to re-imburse CES for the costs involved in the search, reproduction and/or preparation of the record and will be calculated based on the Prescribed Fees.
- Deposit: A deposit of one third (1/3) of the amount of the applicable access fee, is payable if CES receives a request for access to information held on a person other than the requester himself/herself and the preparation for the record will take more than six (6) hours. In the event that access is refused to the requested record, the full deposit will be refunded to the requester.

5.4. Notification

CES will within thirty (30) days of receipt of the request decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

The thirty (30) day period within which CES has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty (30) days, if the request is for a large volume of information, or the request requires a search for information held at another office of CES and the information

cannot be reasonably obtained within the original thirty (30) day period. CES will notify the requester in writer should an extension be sought.

If the request for access to a record is successful the requester will be notified of the following:

- The amount of the access fee payable upon gaining access to the record;
- An indication of the form in which the access will be granted; and
- Notice that the requester may lodge an application with a court against the payment of the access fee and the procedure, including the period, for lodging the application.
- If the request for access to a record is not successful the requester will be notified of the following:
 - Adequate reasons for the refusal (refer to Third Party Information and Grounds for Refusal); and
 - That the requester may lodge an application with a court against the refusal of the request and the procedure, including the period, for lodging the application.

5.5. Records that cannot be found or do not exist

If CES has searched for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try to locate the record.

6. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS AND APPEAL

6.1. Grounds for Refusal Chapter 4

The thirty (30) day period within which the Information Officer is required to reply to a request, as stipulated in the Act, shall commence only once a requester has complied with all the requirements of the Act in requesting access to a record, to the satisfaction of the Information Officer.

Requests may be refused on the following grounds, as set out in the Act:

- Mandatory protection of privacy of a third party who is a natural person, including a deceased person, which would involve the unreasonable disclosure of personal information of that natural person;
- Mandatory protection of commercial information of a third party or CES, if the record contains:
- Trade secrets of the third party or CES;
- Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the third party or CES; and
- Information disclosed in confidence by a third party to CES if the disclosure could put that third party to a disadvantage or commercial competition.
- Mandatory protection of certain confidential information of a third party if disclosure of the record would result in a breach of a duty of confidence owed to that party in terms of an agreement;
- Mandatory protection of the safety of individuals, and the protection of property;

- Mandatory protection of records privileged from production in legal proceedings, unless the legal privilege has been waived; and
- Mandatory protection of research information of a third party and of CES.

6.2. Appeal

If a requester is aggrieved by the refusal of the Information Officer to grant a request for a record, the requester may, within thirty (30) days of notification of the Information Officer's decision, apply to court for appropriate relief.

7. PRESCRIBED FEES: SEC 92

7.1. Reproduction Fees

The applicable fees (excluding VAT) for reproduction as referred to above are:

Category	Rand
For every photocopy of an A4-size page or part thereof	1.10
For every printed copy of an A4-size page or part thereof held on a computer or in electronic form	0.75
For a copy in a computer readable form: Compact disc	70.00
A transcription of visual images, for an A4-size page or part thereof	40.00
For a copy of visual images	60.00
A transcription of an audio record, for an A4-size page or part thereof	20.00
For a copy of an audio record	30.00

Category Rand

7.2. Request Fee

A request fee of R50.00 (excluding VAT) is payable upfront where a requester submits a request for access to information on anybody else other than a requestor.

7.3. Access Fee

The applicable fees (excluding VAT) which will be payable are:

Category	Rand
For every photocopy of an A4-size page or part thereof	1.10
For every printed copy of an A4-size page or part thereof held on a computer or in electronic form	0.75
For a copy in a computer readable form: Compact disc	70.00

A transcription of visual images, for an A4-size page or part thereof	40.00
For a copy of visual images	60.00
A transcription of an audio record, for an A4-size page or part thereof	20.00
For a copy of an audio record	30.00

7.4. Postage Fee

Where a copy of the record needs to be posted the actual postal fee is payable in addition to the applicable fees.

ANNEXURE A:

PAIA REQUEST FOR ACCESS TO RECORD FORM v1.0 2021



REQUEST FOR ACCESS TO A RECORD IN TERMS OF SEC 53(1) of the PROMOTION OF ACCESS TO INFORMATION ACT 2 of 2000

1. Particulars of Private Body requesting access to the record

Contact details:	
Chief Executive Officer (as defined in the Act)	
Information Officer	
Postal address	
Physical address	
Phone number	
Fax number	
E-mail address	
Website address	

2. Particulars of an individual person requesting access to the record

- The particulars of the person who requests access to the record must be recorded below.
- Furnish an address and/or fax number in the Republic of South Africa to which information must be sent.
- Proof of identity is required from both the requester and any person or any party acting on behalf of the requester.
- The original identity document or such other proof satisfactory to the Chief Executive Officer or Information Officer will need to be presented with this request by the requester or the requester's representative before the request will be processed.
- If the request is made on behalf of another person, proof of the capacity in which the request is made, is also to be presented with this request.

DETAILS OF REQUESTER

Surname	
Full names	
Identity number	
Postal address	
Telephone number	
Fax number	
E-mail address	

If a request is made on behalf of another person the requester is obliged to identify him / herself and to provide proof of the mandate under which the request is made, to the satisfaction of the Information Officer.

3. Particulars of person on whose behalf request is made

Surname	
Name	
Identity number	

4. Particulars of record

- 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.
- 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.
- The requester’s attention is drawn to the grounds on which the private body must or may refuse access to a record (in certain instances this may be mandatory, in others it may be discretionary):
 - Mandatory protection of the privacy of a third party who is a natural person (human being);
 - Mandatory protection of certain confidential information of a third party;
 - Mandatory protection of commercial information of third party;
 - Mandatory protection of the safety of individuals, and the protection of property;
 - Mandatory protection of records privileged from production in legal proceedings;
 - Commercial information of a private body;
 - Mandatory protection of research information of a third party and a private body.

DESCRIPTION OF RECORD AND/OR PART OF RECORD

CATEGORY	DESCRIPTION OF RECORD

Notes to Particular of record:

- Your indication as to the required form of access depends on the form in which the record is available.
- 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.
- The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

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 the images		copy of the images*	transcription of the images*
3. If the record consists of recorded words or information which can be reproduced in sound -			
listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)	
4. If the record is held on computer or in an electronic or machine-readable form -			
printed copy of record*		printed copy of information derived	copy in computer readable format*
Do you wish the copy or transcription to be posted to you? Note: If you requested a copy or transcription of a record (above), a postal fee is payable.			Yes
			No

5. Fees

- A request for access to a record, other than record containing personal information about yourself, will be processed only after a request fee (currently R50.00) has been paid.
- If the prescribed request fee is amended you will be notified of the amount required to be paid as the request fee.
- 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.
- If you qualify for exemption of the payment of any fee, please state the reason therefore.

The requester qualifies for an exemption in payment of fees (mark the appropriate box)	Yes	No
Reason		

--

6. 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?	

7. Details of the right to be exercised and/or protected.

Indicate which right is to be exercised or protected *

Explain why the requested record is required for the exercising or protection of the aforementioned right *

* NOTE:

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.

8. 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 thereof 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?

9. Signatures

Signed at _____ this _____ day of _____ 20_____

SIGNATURE OF REQUESTER
(sign & print name)

SIGNATURE OF REPRESENTATIVE
(sign & print name)